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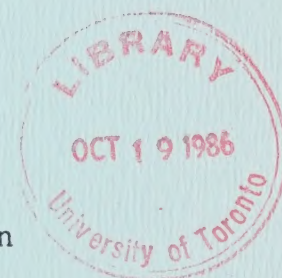
VOLUME: 144

DATE: Thursday, October 5th, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR,
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Thursday, October 5th,
1989, commencing at 8:30 a.m.

VOLUME 144

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member



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I N D E X O F P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>JOHN McNICOL,</u>	
<u>FRANK D. KENNEDY,</u>	
<u>J. JOSEPH CHURCHER,</u>	
<u>RICHARD WILLIAM GROVES,</u>	
<u>HARTLEY MULTAMAKI,</u>	
<u>ALBERT BISSCHOP,</u>	
<u>ROGER W. DAVISON,</u>	
<u>ROBERT THOMAS FLEET, Resumed</u>	24568
 Cross-Examination by Mr. Lindgren	24568
Continued Cross-Examination by Ms. Swenarchuk	24789

I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
882	Excerpt from Book 5 of the Red Lake Timber Management Plan.	24635
883A	Letter dated February 24, 1986 from Regional Director to District Manager, Red Lake re: Exemption Order MNR 11-9.	24644
883B	Letter from District Manager to members on mailing list re: Information Centre for Pre-Fire Plan (Pages 38 & 39 Book 8).	24645
883C	Public Notice for second Information Centre re: Post-Fire (Page 55, Book 5).	24645
884	Bulletin from main office Planning and Environmental Assessment Branch No. PS40336, dated May 3, 1988.	24658
885	Copy of EA checklist contained within Access Roads Class EA.	24673
886 (reserved)	Access Roads Class EA dated April 1st, 1982.	24679
887	Copy of summary FEPP taken from the Access Roads Class EA.	24714
888	Public Notice dated March 20th, 1989 issued by Timmins District Manager.	24766

1 ---Upon commencing at 8:35 a.m.

2 THE CHAIRMAN: Good morning. Be seated,
3 please.

4 Mr. Lindgren?

5 MR. LINDGREN: Good morning, Mr.
6 Chairman.

7 JOHN McNICOL,
8 FRANK D. KENNEDY,
9 J. JOSEPH CHURCHER,
10 RICHARD WILLIAM GROVES,
11 HARTLEY MULTAMAKI,
12 ALBERT BISSCHOP,
13 ROGER W. DAVISON,
14 ROBERT THOMAS FLEET, Resumed

15 CROSS-EXAMINATION BY MR. LINDGREN:

16 Q. Mr. Bisschop, I would like to start
17 with you this morning and I would like to start with
18 your evidence that you presented in relation to access
19 road planning.

20 Now, Mr. Bisschop, we have reviewed your
21 CV and were wondering, have you ever actually drafted a
22 timber management plan?

23 MR. BISSCHOP: A. No, I haven't.

24 Q. And have you ever actually planned an
25 access road?

26 A. No, I haven't.

27 Q. Is it fair to say then, Mr. Bisschop,
28 that you have had no practical or firsthand experience

1 in access road planning?

2 A. Not in the subject of access road
3 planning but certainly in terms of the planning of what
4 I would refer to as linear facilities; for example,
5 Hydro lines at the time when I was with Ontario Hydro.

6 Q. Those are not forest access roads?

7 A. No, but in terms of the kinds of
8 principles involved, particularly as it relates to
9 environmental assessment, I believe there are very
10 appropriate similarities.

11 Q. That may well be, Mr. Bisschop, but I
12 believe the actual question was somewhat more narrow,
13 and it was: You have had no practical or firsthand
14 experience in access road planning?

15 A. That is correct.

16 Q. Thank you. Would you agree with me
17 then that the evidence that you presented to this point
18 has largely described the theory of access road
19 planning, you have not described how that planning
20 process is actually implemented in the area of the
21 undertaking?

22 A. That's correct and that's how I would
23 characterize my job and my position at the Ministry of
24 Natural Resources.

25 Q. Okay, thank you. I would like to

1 start with the one-kilometre corridor planning process
2 and it might be useful, Mr. Bisschop, to refer to
3 Exhibit 837A which is the overhead that you presented
4 in relation to that evidence.

5 A. Yes, I have it.

6 Q. Now, before we actually review this
7 exhibit, would you agree with me, Mr. Bisschop, that
8 the one-kilometre corridor planning stage is a very
9 important stage of the road planning process?

10 A. Yes, and I'd add to that that I
11 believe the planning of the primary access system is
12 the important part of the process. We happen to define
13 it in terms of a one-kilometre dimension, yes.

14 Q. And one of the reasons the
15 one-kilometre corridor stage is important is because of
16 the long-term directional nature of the corridor and
17 the permanent nature of the access roads that are
18 constructed?

19 A. Yes, exactly.

20 Q. And, as well, I think you indicated
21 that you also wanted to minimize the number of roads
22 that were constructed?

23 A. Certainly in terms of the primary
24 system, it's the system for the entire management unit
25 and it ought to be looked at in terms of designing an

1 efficient system for the entire unit.

2 Q. Now, in your evidence you described
3 the one-kilometre stage as an environmental assessment
4 style of analysis; do you recall that testimony?

5 A. I recall that. I'm not sure I
6 specifically referred to the one-kilometre primary road
7 coring analysis as being environmental assessment
8 style, perhaps I did. It is more of a broad analysis
9 than the specifics that environmental assessment
10 entails.

11 Q. Well, let's explore that a little
12 bit, and for the record I can indicate that that
13 particular reference is found at page 23247. And, Mr.
14 Bisschop, that comment was made in relation to the
15 one-kilometre stage process.

16 A. Yes. And to recall now, I believe in
17 terms of -- on Exhibit 837A, the very first bullet, I
18 made that comment probably in relation to that point.
19 We look at alternatives, we analyse alternatives, we
20 make a decision and rationalize our selection, and I
21 would equate that to typical environmental assessment
22 style analysis.

23 Q. Well, as I say, let's explore that a
24 little bit more deeply, Mr. Bisschop. I think upon a
25 closer examination I think you will find it's not

1 really environmental assessment at all, it lacks some
2 of the elements, the typical elements that we would
3 find in environmental assessment.

4 For example, can you confirm that the
5 one-kilometre corridor stage does not consider or
6 evaluate the 'do nothing' alternative?

7 A. I guess I would argue that it is
8 considered in the sense that perhaps, I guess you could
9 say, it is dismissed in the sense that we have to
10 provide access to the areas that are eligible, so the
11 'do nothing' in effect quickly becomes an alternative
12 that is not available to you.

13 Q. I think you just indicated that the
14 'do nothing' alternative may be considered, but it's
15 not evaluated or analysed?

16 A. In any kind of a formal sense it is
17 not analysed, you are correct there, yes.

18 Q. And would you agree with me that the
19 consideration and evaluation of the 'do nothing'
20 alternative is a common element in typical
21 environmental assessment?

22 A. Yes, that's correct.

23 Q. Would you also agree that the
24 one-kilometre corridor stage does not consider or
25 evaluate the environmental impacts of the harvesting

1 that will occur as a result of the access roads that
2 are constructed?

3 A. That's correct, if you were dealing
4 with the road.

5 Q. Perhaps I could direct you to page
6 135 of the Class EA. I'm looking at the first full
7 paragraph that commences with the words:

8 "The broad environmental analysis of
9 the single corridor..."

10 Do you have that, Mr. Bisschop?

11 A. Yes, I do.

12 Q. Now, this paragraph goes on to
13 indicate that the analysis addresses three main
14 criteria; namely, effectiveness of access to the entire
15 area eligible for operations; secondly, the
16 accommodation of preliminary areas of concern and the
17 estimated construction, transportation and maintenance
18 costs; and in the paragraph below it further indicates
19 that a use management strategy should be considered and
20 developed.

21 First of all, I would like to ask you
22 about the second bullet, the accommodation of
23 preliminary areas of concern. Does this mean that the
24 planners simply address a question of whether or not
25 the road hits or misses the preliminary AOC?

1 A. That's certainly the major part of
2 it. I would add to that that one would want to
3 describe, if you are affecting what is called a
4 preliminary area of concern, what are the values within
5 that area of concern that you are affecting because --

6 Q. You made one -- sorry. Sorry to cut
7 you off, you can continue.

8 A. In the sense that ultimately you want
9 to compare alternatives and you want the additional
10 information about what are the values that have been
11 generalized into that concept of what I've called
12 preliminary areas of concern so that you can make a
13 meaningful comparative analysis of the alternatives.

14 Q. Now, I agree that it would be
15 desirable do that, Mr. Bisschop. Can you point to me
16 or point the Board to any provision in the Class EA
17 that actually requires the planners to do that?

18 A. No, you're correct. I'm adding an
19 interpretation to what I mean by the words
20 accommodation of preliminary areas of concern.

21 First of all, are you affecting them, how
22 are you affecting them; and then, secondly, I'm saying
23 in addition, look a little further and describe the
24 values that are encountered when you are affecting
25 them. And you are correct, there is no additional

1 detailed direction to do that, but that's how I would
2 add additional interpretation of those words.

3 Q. And precisely how would your
4 interpretation filter down to the planners who are
5 actually undertaking road planning; is that sort of
6 direction contained within a policy or a guideline or
7 directive?

8 A. No. What I would say is it's brought
9 to the attention of the planning teams primarily
10 through the last two years when we've conducted our
11 provincial training courses where there is further --
12 there has been further elaboration of what's expected
13 in the analysis of alternatives at the 20-year primary
14 corridor stage.

15 Q. It may well be beneficial to
16 incorporate that into the training sessions or seminars
17 that the Ministry has conducted, but would it not also
18 be advisable or desirable to express that direction in
19 the form of a directive or procedure or a bulletin,
20 something of that nature?

21 A. I think we have found ourselves that
22 unquestionably additional detailed direction is
23 required on subjects such as this.

24 Q. And what are the Ministry's
25 intentions in terms of addressing that need?

1 A. Certainly it is something we would
2 address through training. We have addressed and we
3 will address further the subject of whether or not it
4 requires additional written direction. In terms of a
5 bulletin, is something that I would want to consider
6 and the Ministry would want to consider in terms of
7 this is only one item in probably a host of many items
8 that would require further direction: Is production of
9 written bulletin direction the most effective way to
10 ensure that that understanding is delivered to the
11 field offices.

12 Q. Is that under active consideration
13 right now, Mr. Bisschop?

14 A. I think I can simply speak generally
15 that we have found even in our most recent training
16 courses in June of this year that additional direction
17 is required in various aspects of planning,
18 particularly related to, again, what I would broadly
19 call this environmental analysis requirements when it
20 comes to roads and planning of operations in areas of
21 concern.

22 And, yes, in fact Mr. McNicol and I have
23 spoken to the subject of the additional training
24 requirements that we still believe are necessary for
25 people to have a complete understanding of what's

1 expected.

2 MR. MARTEL: Could it become a term and
3 condition?

4 MR. BISSCHOP: Excuse me?

5 MR. MARTEL: Could it become a term or a
6 condition that the Ministry be prepared to add to its
7 terms and conditions which it has already prepared?

8 MR. BISSCHOP: Well, we do have a term
9 and condition that addresses training, I can't recall
10 the number. I would be concerned about that term and
11 condition becoming a volume in itself if we are going
12 to deal with the specific details of every aspect of
13 the planning process that requires some further written
14 direction.

15 It is something that could be considered,
16 yes, but I think it's more a matter of I believe -- if
17 there is a requirement for further direction, I believe
18 that's something that the message could be delivered to
19 the Ministry of Natural Resources and it would be our
20 obligation to live up to that requirement and produce
21 the necessary direction to our field offices to ensure
22 that all of the requirements are clearly understood and
23 met in the future.

24 MR. LINDGREN: Q. In addition to written
25 direction, are there other options that are under

1 consideration by the Ministry to address this perceived
2 need for additional training or direction in this
3 matter?

4 MR. BISSCHOP: A. I think -- again
5 referring to thinking and discussions that in
6 particular Mr. McNicol and I have had on this subject
7 over the last number of months, perhaps a more
8 effective way to deliver the message is to use examples
9 from plans that we consider to be good examples of the
10 necessary approach to, for example, this planning
11 subject and use that as a way of communicating the
12 requirements as opposed to a detailed written direction
13 to all our field offices that these are the elements of
14 the process that are required.

15 We could perhaps do it much more
16 effectively through using examples that we believe meet
17 the requirements and through that convey the necessary
18 message about what we expect.

19 Q. And how would those real life
20 examples be circulated to the planners?

21 A. Through our training courses which we
22 have designed to be - I'm not sure of the right word to
23 use - we approach training by directing our efforts to
24 those people who will be producing plans in the
25 upcoming year.

1 So we would direct ourselves to the
2 immediate requirement of making sure the people
3 producing the next round of plans would get the
4 training, and I would argue that progressively in
5 following years we would focus or add to our planning
6 requirements through the planning courses and that's
7 how we would make our expectations known to planning
8 teams.

9 Q. I think you just indicated that you
10 are considering the use of real life examples in these
11 training sessions at some point. I take it that they
12 are not -- real life examples are not currently being
13 used?

14 A. We have done that. There has been --
15 as we have indicated, we have been working with the
16 process for now I believe three years. There has been
17 variability in terms of the approach. Approaches that
18 have been taken, we would like to obviously - and we
19 must - reduce that variability and we must more clearly
20 explain what are the requirements and what are the
21 expectations, and I would suggest that we have dealt
22 with that through training already.

23 Hopefully and expectedly the products
24 that are produced during this year will provide us with
25 examples that we can use in training next year.

1 Q. Just a couple of final questions
2 before we move on, Mr. Bisschop. You have indicated
3 that this training session or the roads component of
4 the training sessions have been in place for two to
5 three years?

6 A. That's right. We have been applying
7 the process since the beginning of 1986.

8 Q. How did the Ministry originally
9 identify the need for additional training? How did
10 this come to the Ministry's attention and what kind of
11 circumstances prompted the Ministry to devise this
12 strategy?

13 A. The plans that were produced in 1987,
14 again, I'd probably say showed considerable
15 variability. We had originally thought when the
16 documents were issued to our field offices at the end
17 of '85 beginning of 1986 that along with that a
18 provincial training requirement was necessary.

19 At the time we decided that the way to do
20 that was to deal with training of our regional planning
21 specialists from main office and allow our regional
22 planning specialists to, in effect, train district
23 staff within their regions. We found from the
24 experience of 1987 plans that we were getting
25 variability amongst, first of all, the training efforts

1 from regions to districts amongst the various regions
2 and, consequently, we were getting variable results in
3 terms of the plans that were produced.

4 Q. Can you provide particulars of those
5 variable results?

6 A. You mean particulars in terms of
7 examples of individual plans?

8 Q. Correct.

9 MR. FREIDIN: Well --

10 THE CHAIRMAN: Just a minute, what
11 purpose are examples of variability amongst the regions
12 of efforts undertaken two to three years ago?

13 MR. LINDGREN: Well, I think it might be
14 instructive to determine why the Ministry determined
15 that there was a need for this additional training and
16 then that will help us answer whether or not the
17 training sessions that they are proposing actually
18 address the variability that we have seen to this
19 point.

20 THE CHAIRMAN: But isn't it enough that
21 they have identified a need to try and standardize the
22 level of knowledge about this kind of methodology out
23 there?

24 MR. LINDGREN: That's correct, they have
25 attempted to standardize it. I am just wondering

1 whether or not that's sufficient to address the
2 variability that we have -- or that Mr. Bisschop has
3 seen to this point. Perhaps I can address that
4 question to Mr. Bisschop.

5 MR. FREIDIN: Well, Mr. Chairman, I don't
6 think we are here to design the training course, I
7 think we are here to design what the product is
8 supposed to be and it should be left, I think, to the
9 people who implement this process to, in fact, meet any
10 obligations which are imposed on it by a term and
11 condition to deliver a product. And that's what's
12 important, not to design the training program.

13 MR. LINDGREN: I can advise my friend it
14 is not my intention to design the detailed components
15 of the training session, my interest is a little more
16 generic than that.

17 I am wondering whether or not the
18 training sessions that are currently underway, whatever
19 they may be, I am wondering if they are effective at
20 addressing the variability that Mr. Bisschop has seen
21 and I don't understand what he means by variability, I
22 am asking for clarification of that term.

23 MR. BISSCHOP: By variability I guess I
24 would refer to the -- step back. I think this
25 discussion comes back to page 135 in terms of the

1 subject of accommodation of preliminary areas of
2 concern, what would I expect to see. And I think by
3 variability I was referring to the variability in terms
4 of documentation of the kinds of things that were
5 addressed within the basic structure of the process.

6 The structure of the process, the basic
7 elements that need to be covered I would say are quite
8 well understood. The variability I'm referring to is
9 in the, what I would call the analysis, the kind of
10 documentation that is produced about, for example, each
11 alternative, the kind of documentation that
12 rationalizes the selection of one alternative from that
13 analysis. So that's what I'm talking about in terms of
14 variability.

15 Just to step back to the subject of how
16 we got into provincial training, I would just like to
17 finish that off in the sense that, as I indicated, we
18 had - to use the word variability again - variability
19 in terms of the training that was delivered by our
20 regional staff to their respective districts amongst
21 the various regions and variability in terms of what I
22 have just explained as the documentation material that
23 we would see in individual plans.

24 We realized I think - and we began this
25 in our first training in early 1988 - we realized in

1 late 1987 that we are dealing with a planning process
2 that is provincial in nature and we came to an
3 understanding that we needed to deliver training that
4 was provincial in nature and we -- in the design of
5 that training, I believe we incorporated the thoughts
6 of regional staff who were involved in training in the
7 regions in 1987 and designed a course for provincial
8 training for upcoming plans.

9 That course has evolved during 1988 and
10 again in 1989. I believe the most recent courses we
11 delivered in June of '89 were of course our best
12 efforts. We still see a requirement for additional
13 effort particularly in terms of this question of
14 documentation and--

15 MR. LINDGREN: Q. And -- sorry.

16 MR. BISSCHOP: A. --the process is
17 understood, the documentation is produced to accompany
18 the application of that process so that it is
19 clearly -- so that one can see clear tracing of
20 decision-making, is something that I think we still
21 need to direct additional efforts to.

22 Q. Just one final question before we
23 move on, Mr. Bisschop. You have indicated that roads
24 planning or the documentation therefore is one area
25 where additional training is required. What are the

1 other subjects or areas where the Ministry -- that the
2 Ministry has identified that require further training?

3 A. I can speak to what I would call
4 the...

5 THE CHAIRMAN: Excuse me just one second.
6 ---Discussion off the record

7 THE CHAIRMAN: Okay, go ahead.

8 MR. BISSCHOP: I can speak to what I see
9 the requirements being in terms of that part of the
10 process that I think you understand as being the focus
11 of my evidence, which is road planning primarily in
12 area of concern planning, public consultation.

13 Mr. Kennedy perhaps could speak to the
14 subject of some of the more -- what I call the more
15 technical forestry matters which require training.

16 Area of concern planning, again
17 particularly in terms of the expected documentation of
18 that process; and, secondly, consistency in terms of
19 applicant of our guidelines.

20 Everyone is aware of the appointment of
21 Mr. McNicol earlier this year. His appointment in my
22 view is increasingly to provide in some ways assistance
23 to me in terms of ensuring proper application of all of
24 the guidelines and manuals that we use in the Ministry
25 within the structure that is being described in the

1 process for planning of operations.

2 Also, I see training requirements in
3 terms of public consultation, the whole subject of how
4 we involve the public, how we come to decisions that
5 involve the public and documentation of that side of
6 planning as well.

7 Again, as I said, in terms of the more
8 technical forestry matters, perhaps Mr. Kennedy would
9 like to add a few comments about where we see training
10 needs there.

11 MR. LINDGREN: Q. Please do so, Mr.
12 Kennedy.

13 MR. KENNEDY: A. Just by way of
14 introduction, I think first of all foresters are now
15 faced with timber management plans being much more of a
16 public document than they have ever been before and as
17 a profession I think we are having some difficulty
18 coming to grips with that in terms of our technical
19 training, it hasn't always led us to have the skills
20 necessary to translate some of our technical
21 information into easily understood for the lay public.

22 So we are putting efforts now into making
23 plans more readable, making them easier to understand
24 and to put an effort into the aspect of having
25 decision-making more traceable in the plan, that is

1 following through with the information that is
2 available, the kind of forecast of activities that will
3 occur.

4 In particular, that leads us to a desire
5 to make a better effort as shown by the linkages in the
6 plan, and by linkages I am referring to drawing better
7 attention to those objectives that are in mind or the
8 land base and showing how the action that will take
9 place on the ground as planned in the plan will achieve
10 those objectives.

11 I think that is one of the key areas in
12 which people are interested in seeing, why we are
13 undertaking action and what will become of those
14 issues.

15 Q. Are there any other technical issues
16 that might come immediately to mind?

17 A. I would say there's, as Mr. Bisschop
18 has indicated, there are many small matters that we
19 would like to address in terms of improved
20 understanding, particularly by way of the phrase that I
21 have used internally during our training sessions, is
22 the expectation of filling in the tables, and I think
23 that there is room for improvement there.

24 As Mr. Bisschop has indicated, when we
25 first set out on the training exercise and the first

1 plan was set out to use the manual in their planning
2 team, in their plan preparation, there was examples to
3 follow, it was a new process and the tables were blank
4 and, consequently, there was some interpretation as to
5 exactly what number fit in what tables, where the
6 numbers were derived from, the linkages that number has
7 to other parts of the timber management plan.

8 So there are a host of areas that evolved
9 around that discussion that we would like to provide
10 better direction by indicating to people what our
11 expectations are and the way that we have been
12 directing that primarily to date is by the use of
13 timber management plans at the training sessions by
14 developing plans available for individuals to look at
15 to see some of the good things that individual planning
16 teams have done and to observe other things that we
17 would like to see improved.

18 We have often used the Red Lake Plan at
19 our training sessions and highlighted how much easier
20 it is to read than some of the other plans that we were
21 dealing with historically.

22 Also, Mr. Multamaki in his plan went to
23 some effort to indicate the linkages back and forth
24 between various sections and we have used that to
25 advise people as to the kind of expectations that we

1 have.

2 Q. Thank you, Mr. Kennedy, that has been
3 quite helpful.

4 THE CHAIRMAN: Mr. Lindgren, just to go
5 back to this training business. What would you expect
6 a Board such as this to do in terms of its role later
7 on in writing a decision and attaching conditions of
8 approval with respect, for instance, to training
9 sessions or training of personnel?

10 What I am saying is this, is that the
11 Board often fashions as part of an approval a condition
12 of approval which might state that an applicant shall
13 develop appropriate protocols or shall develop an
14 appropriate training program to deal with whatever the
15 subject matter is. Would you expect the Board to
16 outline in detail what that training program should
17 consist of almost down to the classroom level that the
18 courses developed shall deal with and list 15 subjects
19 or something like that.

20 In other words, what I am trying to do is
21 I am trying to take your questioning and translate it
22 into how a Board would handle ensuring, in an area
23 where training is required, that an applicant would in
24 fact conduct that training.

25 Now, if there are certain deficiencies

1 identified such as: The training program does not
2 include an evaluation of alternatives, for example,
3 that was identified as a deficiency. Well, of course,
4 a Board could indicate: And there shall be a training
5 program which includes the identification of
6 alternatives.

7 But how do you take this kind of evidence
8 and translate it into what will ultimately emanate from
9 a Board such as this; i.e., in terms of a decision? In
10 my view, it's either pointing out the deficiencies to
11 ensure that they can be covered adequately or, it's
12 ensuring that an appropriate training program be
13 developed and if it isn't appropriate in terms of what
14 they are doing, to specify why it isn't appropriate,
15 because it's nice to go through this type of evidence
16 in terms of why you need something, but how can a Board
17 remedy whatever the deficiency is in terms that can be
18 articulated in a decision?

19 I guess I am looking at the practical
20 side of this question to try and get some guidance as
21 to how a Board can, in fact, ensure that the things you
22 would like to be done are done.

23 MR. LINDGREN: At the outset, Mr.
24 Chairman, I would indicate that Mr. Bisschop has
25 already referred to the fact that the Ministry has

1 already spoken to the issue of training sessions in its
2 draft terms and conditions, I don't have that provision
3 in front of me, I assume it's somewhat general in
4 nature. And I agree with your comments, Mr. Chairman,
5 it's probably not necessary or even desirable for this
6 Board to get into the detailed particulars of what that
7 process should entail.

8 THE CHAIRMAN: Unless of course there is
9 a major deficiency identified--

10 MR. LINDGREN: That's my next point.

11 THE CHAIRMAN: --which should, you know,
12 be enforceable in terms of the applicant complying by
13 the Board imposing a condition to do just that, and
14 that I could see happening, but are these categories of
15 topics that can be addressed by conditions of approval?
16 But the question then arises: How specific then are
17 these conditions of approval. I mean, I can foresee
18 spending probably the better part of two or three weeks
19 here just designing a training program to cover all of
20 the elements that perhaps a proper training program
21 should.

22 MR. LINDGREN: I don't think that it's
23 incumbent on the Board to do that, I think that
24 responsibility lies with the proponent. I would just
25 indicate in closing on that point, Mr. Chairman, that

1 you haven't heard all the evidence yet.

2 THE CHAIRMAN: No.

3 MR. LINDGREN: And it is conceivable that
4 some evidence led by the other parties may well point
5 out some generic deficiencies in the process that
6 should be specifically identified as part of the
7 training program.

8 THE CHAIRMAN: Well, I think that is the
9 area that the Board is trying to encourage the parties
10 in the cross-examination to reach; that is, criticize
11 or bring into play what your deficiencies are with what
12 the proponent is doing and then perhaps suggest
13 alternatives to what they are doing to rectify those
14 deficiencies during your own case.

15 And I hear what you are saying, during
16 your own case you may bring forward evidence to say
17 that a training program should be conducted in such and
18 such a fashion, not the way it's done. I think that is
19 more helpful to the Board because then the Board can
20 take a look at what is done, what you are suggesting
21 should be done instead and deciding, in terms of its
22 decision, what course of action to take.

23 MR. LINDGREN: I agree with the general
24 direction of your comments, Mr. Chairman. And, in
25 fact, I was preparing to move on.

1 MR. CAMPBELL: Mr. Chairman, if I could
2 just add one remark. I think it is fair to note that
3 surely cross-examination is one way to identify those
4 deficiencies; you can't identify deficiencies in the
5 air.

6 Cross-examination, one of its purposes,
7 is to just do that very thing that you speak of which
8 is to identify those deficiencies or not, as the case
9 may be.

10 THE CHAIRMAN: Well, okay, Mr. Campbell,
11 I agree with you to the extent that the deficiencies
12 can be identified in that manner. I guess I would also
13 ask that the questions being put in cross-examination
14 get at those areas, you know, as expeditiously as
15 possible without explaining the whole training program
16 if, in fact, the training program has been explained in
17 direct.

18 MR. CAMPBELL: I don't disagree with any
19 of that, Mr. Chairman.

20 THE CHAIRMAN: Okay.

21 MR. BISSCHOP: Mr. Chairman, if I could,
22 I would like -- from my point of view anyway, I would
23 like to again return to how this discussion started and
24 perhaps add a little bit of focus to it.

25 The discussion, as I saw it, started with

1 the reference on page 135 to the words that the
2 analysis should address:

3 "The accommodation of preliminary areas
4 of concern..."

5 And the question to me was: What is
6 meant by that, and is there additional specific written
7 direction about what is meant by that.

8 I would just like to add that we have, as
9 you know, we have committed ourselves to rewriting the
10 Timber Management Planning Manual as a result of the
11 Decision of the Board and that manual will incorporate
12 the planning process element out of the Class EA and
13 the product requirements in the TMPM.

14 I could see, for example, just using this
15 one example of perhaps some additional words being
16 written into the process that describes a bit more
17 about what is meant here.

18 So, in that sense, Mr. Martel asked the
19 question related to: Could you provide that additional
20 direction in terms of a bulletin. I would suggest that
21 perhaps a better way would be in terms of the rewrite
22 we will make of the manual to add additional wording to
23 explain more clearly what is expected and the training
24 question is another matter entirely following that.

25 MRS. KOVEN: But, Mr. Bisschop, we don't

1 know if the end result of this hearing will be a
2 rewriting of the Timber Management Planning Manual, it
3 might be an entire reformulation of that process or any
4 other number of documents.

5 MR. BISSCHOP: Either way something will
6 have to be rewritten to provide the direction as a
7 result of the decision of the Board.

8 MRS. KOVEN: Oh, I agree with that.

9 MR. LINDGREN: Q. While we are on page
10 135, Mr. Bisschop, I would ask you again to look at the
11 bullets that are listed there.

12 Would you agree with me that this
13 three-part analysis is more operational than
14 environmental in nature; that is, the essential
15 question that is being addressed by the analysis is:
16 Can we do it or not and is it worthwhile, as opposed to
17 undertaking an analysis of the environment, the
18 environment being defined as under the Environmental
19 Assessment Act?

20 MR. BISSCHOP: A. And it's exactly the
21 point I was going to make, that when I think
22 environment I think total and I would argue that all of
23 those elements are part of the environment we are
24 dealing with.

25 So while I would probably withdraw a

1 little bit in terms of referring to this technically
2 as, if you will, a detailed environmental analysis in
3 total, I still think it's a broad analysis that will
4 look -- that attempts to look at this stage in a
5 general way at the environment that we are dealing with
6 and the environment includes the requirement to access
7 the forests that we are going to harvest, it includes
8 the question of dollars because dollars, in my view,
9 are part of the environment, the effects of
10 alternatives can be discussed in terms of relative
11 costs of one versus another, and arguably relative
12 costs of undertaking various alternative activities are
13 an environmental consideration that needs to be
14 addressed.

15 So on the one hand I would suggest that
16 it's -- if we are both agreeing on how we interpret the
17 word environment, I would say it is an environmental
18 analysis as well as an operational analysis, yes.
19 There's no question it's general, a very broad
20 analysis.

21 THE CHAIRMAN: I don't think that was the
22 question. I think you were taking a position, Mr.
23 Lindgren, that this is operational and not
24 environmental; is that not the case?

25 MR. LINDGREN: That is correct.

1 Q. And I think you agreed with that
2 proposition, Mr. Bisschop. It does analyse certain
3 components of the environment, but it is not what I
4 would perceive as an environmental assessment or an
5 environmental analysis, it omits certain key or core
6 elements of an environmental assessment as I perceive
7 it.

8 For example, can you confirm that the
9 road planners are not directed by this particular
10 passage to describe the environment, the whole
11 environment as defined under the Environmental
12 Assessment Act that may be affected by the road
13 corridor?

14 MR. BISSCHOP: A. In detail, no, but in
15 terms of -- I would argue there is an element of
16 description of the environment. We describe the forest
17 conditions that we need to provide access to, the
18 eligible forests for harvest; we describe the various,
19 if you will, key features out there in the environment
20 that we take into consideration at this time, again,
21 the values map that is generalized; we look at how --
22 in a general way again, how are we affecting those
23 values out there; and, again, we are talking -- the
24 assumption is here we have alternatives, we are looking
25 at making a relative comparison of those alternatives

1 to make a selection.

2 We look at what I would consider the
3 environmental question of costs, dollar costs; we look
4 at, again in a general way, what can we do to minimize
5 effects, particularly in terms of use of this minimize
6 and mitigate effects particularly in terms of the use
7 of the provisions for addressing the subject of use
8 management. So in that way I contend that it is,
9 albeit general, an environmental analysis.

10 MR. FREIDIN: Mr. Chairman, I would just
11 like to make the submission that we have seized upon
12 20-year road planning and now we are talking about
13 whether it meets all the requirements in the
14 environmental assessment.

15 We are here putting forward a planning
16 process which isn't just 20-year road planning, we have
17 five-year road planning which looks in more detail at
18 the environment and deals with that in that way and, in
19 my submission, a discussion about whether all the
20 elements of an environmental assessment are met or are
21 not met, No. 1, is partly a legal question, but surely
22 it is one which will have to be addressed by looking at
23 the entire process which is being put forward by the
24 proponent, not in each little separate section.

25 MR. LINDGREN: Mr. Chairman, if I can

1 respond to that. The reason why I seized upon the
2 one-kilometre corridor stage I guess is two-fold.
3 First of all, Mr. Bisschop in his evidence did refer to
4 it as an environmental assessment style analysis. I am
5 merely trying to point out that it in fact lacks
6 certain key elements of that analysis.

7 Secondly, Mr. Freidin rightly or
8 wrongly -- or the Ministry rightly or wrongly is taking
9 the position that where we need the detailed planning
10 is at the five-year stage.

11 Q. My ultimate question here to Mr.
12 Bisschop is: Given the importance and significance of
13 the one-kilometre corridor and given the permanent
14 nature of the roads that are going to be constructed
15 therein, would it not be advisable or desirable to
16 require a more leveled or more comprehensive level of
17 analysis, environmental analysis at the one-kilometre
18 stage?

19 MR. BISSCHOP: A. In terms of
20 comprehensive, first of all, I think what I have done
21 here is I have defined the elements of the analysis
22 that ought to take place at this stage and quite -- if
23 I could, I would like to draw the analogy to my
24 experience at Ontario Hydro which I believe is the
25 basis for the formulation of my approach to this

1 question.

2 When I was in Ontario Hydro I was
3 involved in what we referred to as system planning of
4 the major transmission facilities system and I was
5 involved very much in the system planning stage for
6 southwestern Ontario where I spent -- I spent eight
7 years working on that question. The question, by the
8 way, didn't get resolved until about four years after I
9 left. We looked at what I would call a directional
10 planning question: Do we go east or do we go south,
11 and we looked at -- I think I could sum it up, as we
12 looked at a similar approach.

13 We looked at how effective is one system
14 versus another in terms of serving the - in Hydro
15 jargon - the load requirement, if I am correct in using
16 that now. For example, the question we were dealing
17 with was getting power out of the Bruce Generating
18 Station and at the same time supplying the City of
19 London, so we looked at the effectiveness of one system
20 versus another. We looked at, in a general way, the
21 environment affected: What values, if you will, are
22 out there, and what is the relative merits of one
23 alternative versus another, which I would equate in a
24 general way to my second point.

25 We looked obviously at the question of

1 costs because some systems were much more expensive
2 than others, and we looked at the question, in a
3 general way, of: What can we do about preventing,
4 minimizing or mitigating effects which, in terms of
5 detail, had yet to be determined. We were looking at
6 should we go south from Bruce to London through
7 predominantly agricultural land versus should we go
8 east to Barrie and then around to London through what
9 is predominantly a more natural environment, if you
10 will.

11 And we looked at the questions in terms
12 of prevention and minimization of effects in a very
13 general way about how we can do that, and that is
14 primarily through such matters as location of
15 facilities relative to agriculture operations, in the
16 one case; location of facilities and retention of
17 forest cover in the other case.

18 So I drew from that experience in terms
19 of looking at a system approach to things in terms of
20 the Hydro case and brought that to the design of
21 approaching the question of: How do we look at the
22 primary access system for a forest management unit in a
23 broad sense, and making a selection of a preferred
24 directional nature for the primary access system for a
25 management unit for 20 years and beyond.

1 And, in the Hydro case, the details of
2 looking at: Where would the facility be located
3 specifically, what is the environment that is affected
4 specifically, what can I do about those effects
5 specifically, was addressed at the next stage of
6 planning, and that approach is carried on into timber
7 management planning where at the five-year level,
8 having selected the one-kilometre corridor, we would
9 look specifically at the specific locating of the road
10 within that one-kilometre corridor to address the
11 specific environment that is affected there and how,
12 through the planning of the location of the road and
13 the construction of the road, we can prevent, minimize
14 or mitigate effects.

15 So I guess what I'm doing is I'm drawing
16 the analogy in terms of environmental assessment
17 analysis to the way that other proponents deal with the
18 same kind of question at that kind of level.

19 Q. Well, that was a very interesting
20 answer, Mr. Bisschop, but I don't think it addressed my
21 original question and that is: Is it desirable to have
22 or require a more detailed level of environmental
23 analysis at the one-kilometre stage?

24 A. My answer to that is in terms of the
25 elements that -- the subject matters that need to be

1 addressed, I don't believe so. If you are saying in
2 terms of the details of what we speak to for each of
3 those elements, I would argue that that is something
4 that has to be addressed on a case-by-case basis for
5 the particular situation you are dealing with with
6 primary road on a management unit.

7 THE CHAIRMAN: I take it your simple
8 answer is no?

9 MR. BISSCHOP: Yes.

10 MR. LINDGREN: And that's the answer I
11 was looking for, Mr. Chairman.

12 Q. Let's turn to the issue of
13 preliminary areas of concern, I'm referring to again
14 page 135 at the top. And in your evidence, Mr.
15 Bisschop, you have indicated that these preliminary
16 AOCs are to be avoided, you also said that it would be
17 preferable to avoid a hundred per cent of the AOCs if
18 possible. Do you recall that testimony?

19 MR. BISSCHOP: A. Yes.

20 Q. Now, I have reviewed the Class EA, I
21 have looked at Section 9 of Document 2 of the witness
22 statement and, Mr. Bisschop, I really can't find any
23 reference or authority for that proposition.

24 If we look at the top of page 135, we see
25 that planners normally attempt to avoid or minimize

1 intrusion into preliminary AOCs, they normally attempt
2 to do so. Now, my question to you, Mr. Bisschop, is:
3 Is there an MNR policy or directive or procedure that
4 instructs them or directs them to avoid preliminary
5 AOCs to the greatest possible extent?

6 MR. BISSCHOP: A. First of all, I think
7 I should retract my answer of yes on the first
8 question. There may -- what we have done with
9 preliminary areas of concern is we have generalized the
10 values that are on the map. In the planning of primary
11 access roads it is possible from the perspective of
12 other programs that we may want to provide access to
13 those other values as well; for example, we may
14 identify a preliminary area of concern that deals with,
15 if you will, a tourism value or an area in which there
16 are tourism values.

17 We are dealing with a, in most cases,
18 planning access into previously unaccessed territory,
19 so it is possible that at the same time as we are
20 addressing the forest -- the timber management
21 requirement to provide access to areas eligible for
22 harvest, that in looking at other program interests
23 there may be a desire to provide access to serve other
24 needs as well.

25 And, in that sense, it's possible that

1 the preliminary area of concern concept, which I spoke
2 to, may be used in a positive way, if you will, to
3 provide access for some other purpose as well while you
4 are doing the access requirements for timber
5 management.

6 So normally -- again, if you recall,
7 there was a time when I made the comment that I tend to
8 always look at the negative side of things. There are
9 situations where we look at the question in a positive
10 way in terms of - in the use of the preliminary area of
11 concern idea anyway - looking positively at not only
12 providing access for timber management purposes, but
13 for other purposes as well.

14 THE CHAIRMAN: Mr. Bisschop, going back
15 to Mr. Lindgren's question, are there directives or
16 policy statements advising planners to treat areas of
17 concern in that fashion as stated at the top of 135?

18 MR. BISSCHOP: There is nothing further
19 than what is stated on page 135, Mr. Chairman.

20 THE CHAIRMAN: Thank you.

21 MR. LINDGREN: Q. I hate to raise this,
22 and I am hesitant to raise this again, but is this
23 another issue that is dealt with during the training
24 sessions?

25 MR. BISSCHOP: A. In terms of further

1 explanation of normally you would try to avoid...

2 Q. Correct.

3 A. It certainly is a subject that is
4 dealt with in training. I can't speak to -- I can't
5 say that we specifically expend a great deal of effort
6 in terms of explaining this any further than that.

7 Q. Okay.

8 MR. McNICOL: A. Mr. Lindgren, perhaps I
9 can help you there. With regard to a training message
10 on this particular issue in many cases, and I would
11 suggest in virtually all cases, it's redundant and the
12 reason it's redundant is that from a practical sense
13 when you are looking at where to put your primary roads
14 as a planning team you are looking at how you are going
15 to be able to optimize, not in a rigorous sense, but
16 certainly in a practical sense that corridor.

17 And any district manager, any planning
18 team knows that if there is an alternative to avoid a
19 remote tourism opportunity, that that alternative will
20 be employed because if you don't do that you know that
21 you are going to have some very irate tourist operators
22 pounding on the district manager's desk demanding to
23 know why an alternative that was economically viable
24 and just as good as the alternative that put it right
25 through a remote tourism opportunity was not employed.

1 So from a very practical sense, the
2 planning team is looking to optimize where that
3 alternative goes.

4 Q. And precisely what do you mean by the
5 term optimize?

6 A. Try to maximize the benefits that are
7 going to accrue to a number of users, not just the
8 forest industry, but to a number of users with that
9 location.

10 Q. The very next line, Mr. Bisschop,
11 indicates that on occasion, however, a decision may be
12 made to identify and ultimately select a suitable
13 corridor within a preliminary AOC.

14 Now, your CV indicates that you prepared
15 the class environmental assessment. Did you write that
16 particular line?

17 MR. BISSCHOP: A. Yes, and that line I
18 think is a quick one-sentence explanation of the matter
19 I just referred to.

20 Q. Can you provide me with any
21 indication how frequent this practice is? How often do
22 preliminary corridors traverse areas of concern?

23 A. I can't deal with it specifically,
24 but I would expect, yes, that this will be probably a
25 frequent occurrence; for example, traversing a river

1 system that has been identified as a preliminary area
2 of concern.

3 Q. Have you --

4 THE CHAIRMAN: Excuse me a second. Would
5 you say, Mr. Bisschop, that where you have to intrude
6 upon an area of concern though, that it can be done in
7 a manner which will mitigate the damages, such as if
8 you have to cross a bridge and you construct the bridge
9 properly and follow the bridge construction guidelines,
10 et cetera, so be it.

11 I mean, how can you possibly avoid, with
12 something like a primary corridor or even secondary
13 corridors, totally areas of concern particularly when
14 areas of concern have been defined to some extent to
15 embrace other users such as a tourist outpost camp or
16 location or something like that?

17 MR. BISSCHOP: Yes. I would add to that,
18 Mr. Chairman, that at this stage the one -- the broad
19 stage one-kilometre corridor we would look -- of
20 course, be looking for, in a general way, the best
21 place to cross the area of concern. And then at the
22 next stage of planning we would determine specifically
23 the best place to cross that area of concern with all
24 of the attendant measures attached to it about proper
25 construction and minimization and mitigation measures.

1 THE CHAIRMAN: But if you put up a values
2 map in any given unit or area and you took a look at
3 all of the identified values out there, would you agree
4 that it would be almost impossible to avoid intruding
5 upon some of them?

6 MR. BISSCHOP: Exactly.

7 THE CHAIRMAN: Short of not building any
8 roads period?

9 MR. BISSCHOP: That's right. First of
10 all, you are trying to access the areas eligible for
11 harvest - that is understood as the major
12 consideration - you attempt then to deal with the
13 values in terms of best locating that access.

14 MR. LINDGREN: Q. Last Tuesday, Mr.
15 Bisschop, you drew a road corridor on a flip chart - I
16 don't think it's necessary to pull the flip chart out -
17 that was Exhibit 865, and as I recall the flip chart,
18 it depicted a primary -- or a road corridor that went
19 between a single value and a cluster of values. Do you
20 recall that?

21 MR. BISSCHOP: A. Yeah, I recall that
22 and I was trying to address a point. I'm not --

23 Q. Well, so am I, Mr. Bisschop. That
24 was a hypothetical situation; wasn't it?

25 A. Yes, to address a very specific

1 question.

2 Q. And under the Class EA and the Timber
3 Management Planning Manual there is no guarantee that a
4 single value or a cluster of values will not be
5 traversed? That is the point that I think that Mr.
6 Chairman just raised.

7 A. Yes, that's correct.

8 Q. Therefore, your hypothetical could
9 have just as easily been drawn right through either one
10 or both of those values; correct?

11 A. Oh, certainly.

12 Q. And precisely under what
13 circumstances will the road corridor be put through a
14 preliminary AOC? Have those circumstances been
15 specifically identified and circulated to road
16 planners?

17 A. Again, I don't think it's possible to
18 do that, I think it's a case-by-case situation and, in
19 that example, I was probably dealing with a very short
20 portion -- or the idea was to deal with a specific
21 feature that probably would be seen as dealing with a
22 very short portion of that road corridor. There will
23 be considerations from either direction in terms of how
24 you would affect a preliminary area of concern.

25 So, in simple terms, it's not the kind of

1 thing I think that can be answered generally, it has to
2 be a question that's addressed specifically in every
3 individual situation.

4 Q. I take it then that it's impossible
5 or difficult to provide a general rule of thumb or any
6 general direction about the crossing of preliminary
7 AOCs?

8 A. Impossible, difficult and
9 undesirable.

10 Q. Thank you. Could I ask you to turn
11 to page 164 of the witness statement, that's Exhibit
12 813A.

13 MR. FREIDIN: What page?

14 MR. LINDGREN: It's page 164.

15 Q. Now, in the second last paragraph,
16 Mr. Bisschop, it's indicated that:

17 "On occasion there may be only one
18 corridor which is considered to be
19 suitable."

20 Now, stopping right there. How often
21 would that occur, Mr. Bisschop?

22 MR. BISSCHOP: A. I think the words 'on
23 occasion' provide that answer. I can't say
24 specifically how often. My expectation is that it
25 should be infrequent and that there should be very good

1 reasons for why there is only one option worth
2 considering.

3 THE CHAIRMAN: Would that be one of the
4 examples you use where there are two lakes and only one
5 place to put the road between the two lakes if you are
6 going to put a road in there at all?

7 MR. BISSCHOP: Exactly. I hesitated
8 again to use the two lake example because I think we
9 have used that probably perhaps too frequently. That
10 certainly is the kind of situation.

11 MR. LINDGREN: Q. Is that the only
12 situation?

13 MR. BISSCHOP: A. No, I'm sure there are
14 others. I can't immediately think of a situation that
15 would come to mind. I suppose one way to address it is
16 that often the road will be an extension of an existing
17 road and, in that sense, the presence of the existing
18 road has an influencing factor in terms of
19 directionally where do you continue to go and are there
20 any options to -- are there any options available to
21 you.

22 Q. And where you are extending an
23 existing road corridor then, effectively your hands are
24 tied; is that the situation that you are envisioning?

25 MR. FREIDIN: In that answer or

1 generally?

2 MR. LINDGREN: Q. Well, in your answer,
3 Mr. Bisschop.

4 MR. BISSCHOP: A. I wouldn't refer to it
5 in that way. I would refer to it as there are
6 justifiable reasons why there is only one -- is only
7 one option in terms of continuation of that road.

8 THE CHAIRMAN: But surely roads can bend
9 right or left; can't they? I mean, you wouldn't have
10 to go straight ahead, so you have the choice of
11 continuing with the existing road but going in almost
12 any direction even to the extent of making a U-turn and
13 going backwards; don't you?

14 MR. BISSCHOP: Theoretically yes, Mr.
15 Chairman. I guess what I would have to say is that one
16 has to look at the conditions that you are encountering
17 and make that determination as to whether or not there
18 are options available to you.

19 MR. LINDGREN: Q. And the other option
20 is not to continue the road at all; correct?

21 MR. BISSCHOP: A. Again, I think that I
22 have addressed that question of the nil alternative
23 previously. It's obviously a subject that is
24 considered, it's -- I can't point to a requirement to
25 document how you have addressed that, but that is

1 certainly a consideration. I would argue though we
2 have identified the areas eligible for operations and
3 access is necessary in order to carry out operations.

4 Q. But access could be provided from
5 another direction entirely?

6 A. Oh, I see your point there. Yes, in
7 terms of looking at the primary road question I think
8 in the evidence we made it clear that you are not only
9 looking in terms of coming from one direction, but from
10 different directions, yes.

11 THE CHAIRMAN: Mr. Bisschop, in dealing
12 with the nil alternative, since it has been
13 peripherally addressed here and probably will in the
14 future, is it not in your opinion, or is it in your
15 opinion, a tradeoff type of situation in the sense that
16 you take a look at what the purpose of the undertaking
17 is that you are assessing and decide if you have to
18 accomplish a given objective it can be done in a
19 variety of alternative ways?

20 It may be roads -- for instance, for
21 transportation, it may be roads, it may be by rail, it
22 may be by water access, et cetera, or it may be by
23 doing nothing, except if you do nothing and your
24 objective is to provide access, you may have a problem;
25 you can't attain the objective?

1 MR. BISSCHOP: I think that's a very
2 good --

3 THE CHAIRMAN: So then it becomes a
4 question of: What are the impacts, and if the impacts
5 are so deleterious to the environment, whether it be
6 the natural environment or the socio-economic, the
7 impacts may be so great that you decide that, in that
8 given case, the objective isn't worth it and then you
9 might go to the nil alternative?

10 MR. BISSCHOP: I think, Mr. Chairman, you
11 have made two points. Yes, it's a tradeoff decision,
12 and I guess in terms of my previous discussion of we
13 consider it, I'd suggest that that tradeoff question is
14 addressed then, and the second part of your comment I
15 think relates to the iterative nature of planning.

16 MR. LINDGREN: Q. Just to finish off
17 this area, Mr. Bisschop, it's indicated on page 164
18 that where one corridor is considered to be suitable
19 justification is required?

20 MR. BISSCHOP: A. Yes.

21 Q. Two questions there. Is there any
22 minimum content requirements for that justification?
23 What does the Ministry -- what do you expect to see in
24 terms of the justification?

25 A. I would have to say our best response

1 to that is what I led in direct evidence, the reference
2 to the OFIA Interrogatory Question No. 9 where in brief
3 I said that we would expect some description of the
4 conditions that are encountered in that particular
5 situation that led to that conclusion.

6 Q. And I'm hesitant to raise this again,
7 but is there a Ministry directive, policy or bulletin
8 that sets out those content requirements?

9 A. No. The response to the
10 interrogatory is I believe our most up-to-date
11 explanation of the requirements.

12 Q. And finally, Mr. Bisschop, can you
13 indicate what the difference is between a justification
14 and a rationale, or is there a difference? We have
15 seen both terms used throughout this process.

16 A. I think there's such a fine line that
17 I would say there is no difference.

18 Q. Okay. Mr. Multamaki, after Mr.
19 Bisschop described the 20-year one-kilometre corridor
20 planning stage in his evidence Mr. Freidin asked you to
21 demonstrate, or he asked you whether you can
22 demonstrate adherence to that process. Do you recall
23 that question?

24 MR. MULTAMAKI: A. Yes.

25 MR. LINDGREN: And for the purposes of

1 the record, Mr. Chairman, I can indicate that's at page
2 23261 and that's in Volume 137.

3 MR. FREIDIN: I don't see the word
4 adherence, but I won't make a big deal about that.

5 MR. LINDGREN: I stand corrected, Mr.
6 Freidin. The question reads:

7 "Mr. Multamaki, if I can just switch to
8 you for a while. If you go back to 1986
9 and your plan, are you able through
10 reference of that plan to demonstrate
11 this part of the process?"

12 That was the question, and thanks for
13 pointing that out, Mr. Freidin.

14 Q. Now, the transcript indicates that
15 you said yes to that answer and you proceeded to take
16 the Board through various maps depicting the Valhalla
17 Road options. You also indicated that a report was
18 prepared for the second open house because the road was
19 complex and because it was a 20-year one-kilometre
20 corridor. Do you recall that evidence?

21 MR. FREIDIN: He didn't say it was
22 because it was a 20-year corridor, he said it was
23 because it was complex. It happened to be a 20-year
24 road corridor.

25 MR. LINDGREN: Q. In any event, the

1 following day Mr. Freidin asked you under what process
2 were the roads planned on the Red Lake unit, and my
3 notes and the transcripts indicate that you did not
4 answer right away, instead you paused and briefly
5 conferred with Mr. Kennedy. Do you recall doing that?

6 MR. MULTAMAKI: A. Yes, I certainly do.

7 Q. And I took it from that pause that
8 you didn't know what process was used on your unit.
9 Was that the case, Mr. Multamaki?

10 A. No, it wasn't. It was a case of
11 conferring because we planned -- we had to meet the
12 requirements under the FEPP but, in fact, planned under
13 the Class EA and Timber Management Planning Manual as
14 they existed at that time.

15 Q. That was the thrust of your answer
16 and you also referred to a 1986 draft EA. What EA
17 draft were you referring to?

18 A. Sorry, the '85 draft EA.

19 Q. You were referring --

20 A. The EA that came out in 1985 and saw
21 subsequent revisions. I'm not sure that I used the
22 term draft; did I?

23 Q. Yes, you did, but it's not relevant.
24 I was wondering if there was another draft to which you
25 were referring. And I think you've also indicated that

1 the exemption order that you were referring to is
2 exemption order 11/9?

3 A. Yes.

4 Q. And, in particular, I take it that
5 you were referring to condition No. 3? Condition No. 3
6 is the one that requires--

7 A. Yes.

8 Q. --access roads to be planned in
9 accordance with the access roads Class EA?

10 A. That's right.

11 Q. Now, yesterday, Mr. Multamaki, my
12 notes indicated that Mr. Bisschop stated that you
13 followed the Timber Management Planning Manual and the
14 Timber Management Class EA to plan access on the Red
15 Lake unit.

16 I find it odd that Mr. Bisschop explained
17 this matter when you presumably had knowledge of the
18 road planning that went on in the unit.

19 A. Yes.

20 Q. And, in any event, my notes go on to
21 indicate that you confirm that all activities on the
22 Red Lake unit, including access, were planned in
23 accordance with the Class EA and the Timber Management
24 Planning Manual?

25 A. That's correct.

1 Q. Well, Mr. Multamaki, we now have some
2 conflicting answers from the Ministry on the record
3 about this matter and I would like to explore the
4 reasons for this inconsistency with you and I would
5 like to address --

6 MR. FREIDIN: What is the conflicting
7 evidence?

8 MR. LINDGREN: Well, Mr. Multamaki has
9 indicated that the access roads were planned in
10 accordance with the FEPP and now Mr. Bisschop has
11 indicated that access was planned in accordance with
12 the Class EA.

13 MR. FREIDIN: And Mr. Multamaki, as a
14 result of Ms. Swenarchuk asking if you could go to him,
15 explained exactly what he just said a minute ago, that
16 the roads were planned in the accordance with the Class
17 EA and the Timber Managment Planning Manual as it
18 existed at that time.

19 MR. LINDGREN: I'm sorry, Mr. Freidin,
20 that's not my understanding from his answer. His
21 answer --

22 MR. FREIDIN: Well, if you look at the
23 transcript that's what he said.

24 MR. LINDGREN: I did look at the
25 transcript, Mr. Freidin, and the transcripts -- and his

1 evidence a moment ago indicates that it was planned in
2 accordance with the FEPP.

3 Q. Isn't that what you just said, Mr.
4 Multamaki?

5 MR. FREIDIN: That's not what he said.
6 He said the legal requirements that had to be met were
7 under the FEPP, and he said yesterday and the evidence
8 yesterday was that it is the Ministry's view that the
9 requirements were met, notwithstanding they did it in
10 accordance with another planning process. That was the
11 evidence.

12 THE CHAIRMAN: I believe the Board heard,
13 and it was the Board's understanding, that the legal
14 requirements which had to be met at the time were under
15 the FEPP. The planning process which was employed,
16 however, followed the Class EA pursuant to that
17 exemption order, condition--

18 MR. BISSCHOP: 11/9.

19 THE CHAIRMAN: --No 3. Right, 11/09,
20 condition No. 3. The condition we are talking about is
21 the condition under the exemption order; is it not?

22 MR. BISSCHOP: That's correct, Mr.
23 Chairman, condition No. 3 of 11/9.

24 THE CHAIRMAN: Right.

25 MR. LINDGREN: Q. And, Mr. Bisschop,

1 that condition requires primary roads on Crown
2 management units to be planned in accordance with the
3 access roads Class EA; does it not?

4 MR. BISSCHOP: A. That's correct.

5 THE CHAIRMAN: And that's what was done;
6 is that not correct?

7 MR. BISSCHOP: Mr. Chairman, in response
8 to that question we filed Interrogatory No. 18 for NAN,
9 and what I indicated there was that -- I can't recall
10 the exhibit number.

11 MR. LINDGREN: It's Exhibit 878.

12 THE CHAIRMAN: Would we have that up
13 here?

14 MR. BISSCHOP: Yes, it was filed
15 yesterday morning, Mr. Chairman.

16 THE CHAIRMAN: It's okay.

17 MR. BISSCHOP: Just to briefly recap that
18 discussion. If you look at the question first, the
19 question refers to Book 5, page 55 of the Red Lake
20 Plan, and that page is a copy of the public notice for
21 the information centre and the statement that is quoted
22 that's indented in the question is an exact statement
23 out of the public notice.

24 So it was very clear that the direction
25 and the understanding of the people in Red Lake was the

1 primary roads were being planned in accordance with
2 that.

3 To answer the question from NAN, we
4 attempted to provide them with the material in response
5 to their question and we were unable to locate the
6 necessary documentation that fulfilled the requirements
7 of the application of the FEPP in the Class EA for
8 access roads to MNR facilities.

9 Quite frankly, I'm -- since we are unable
10 to locate it, we are unable to say that it was or
11 wasn't done, and we provided first -- further
12 explanation that, in our view, the FEPP requirements
13 relate to two things: First of all, public
14 consultation opportunities; and, secondly, a
15 documentation requirement.

16 The first, the public consultation
17 opportunities under the FEPP have two dimensions: A
18 notice that says -- an early notice that says basically
19 planning will be done in accordance with this and
20 inviting comments, and a final notice.

21 The notice for the information centre
22 specifically addresses the subject of use of the Class
23 EA, so the first notice requirement of the FEPP we have
24 direct attention to. We don't have that direct
25 attention in subsequent notices for the timber

1 management plan, but we conclude that the subsequent
2 notices, in effect, fulfill the requirements of the
3 second notice requirement of the FEPP although they
4 don't specifically refer to it.

5 Secondly, in terms of the documentation,
6 we are simply unable to locate the necessary
7 documentation and that's --

8 THE CHAIRMAN: Do you have any evidence
9 from your district office or regional office that in
10 fact documentation was completed?

11 I mean somebody must have prepared the
12 documentation and presumably it would have been MNR
13 employees. So even though you can't find the
14 documents, have you conferred with those who would have
15 prepared it to ensure that in fact documentation was
16 prepared?

17 MR. BISSCHOP: We have conferred
18 extensively with everyone and we are -- people are
19 simply unable to recall its production or where it
20 would be located. We can't find it in the files.

21 MR. LINDGREN: Q. Mr. Multamaki, you
22 prepared this plan. Let's pose a few questions to you
23 about this issue. First of all, are you familiar with
24 the requirements for the Class EA for access roads to
25 MNR facilities?

1 MR. MULTAMAKI: A. Yes, I am.

2 Q. And could you advise me when you
3 first became aware of its existence?

4 A. I'm looking back several years here,
5 but that came up as a planning team issue I think
6 during the period of the writing of the original draft
7 TMP prior to Fire No. 7 and, in fact, it was a function
8 of the Lands Branch within the Ministry for the
9 planning team, the lands member of the planning team.
10 And, in fact, that first notice I remember that we did
11 put the notice in under the FEPP and, in fact, at the
12 information centre we presented the roads package
13 separately. As I say, I'm doing this from memory.

14 The report on the Valhalla Road that you
15 see in package -- in the witness statement, Exhibit
16 814, was prepared -- written by myself with input from
17 a number of sources, particularly engineering services
18 and so on and, in fact, a number of the elements were
19 in there, things such as examining the alternatives,
20 the environmental analysis and so on, rationale,
21 justification within those four road corridors. So...

22 Q. Well, Mr. Multamaki, can you confirm
23 for me that the access roads Class EA does not mandate
24 or require the one-kilometre corridor stage process
25 that you apparently followed in the Red Lake unit; is

1 that correct?

2 A. I think if you look in there, in
3 fact, we had 500-metre corridors for the Valhalla Road
4 because it was being built during this five-year period
5 of the plan. In fact there were no one-kilometre
6 corridors; in fact there were even more precise
7 location given to the public.

8 Q. Well, I recall reading in the witness
9 statement that, in fact, the two planning stages
10 occurred simultaneously because of the fire; i.e., the
11 one-kilometre stage and the 500-metre stage occurred
12 concurrently. Is that the case?

13 A. The point I'm making is that we, in
14 fact, showed a 500-metre corridor on the maps.

15 Q. Mr. Multamaki, do you recall
16 preparing each document that's required by the access
17 roads Class EA?

18 A. You're talking about under the
19 exemption order, the FEPP?

20 Q. Yes, that's correct. I'm talking
21 about the access roads Class EA?

22 A. No, I did not prepare.

23 Q. You did not prepare any of the
24 documentation?

25 A. I didn't prepare the documentation

1 under that.

2 Q. So, for example, you didn't prepare
3 the project summary report that's required?

4 A. I prepared a project summary report
5 as you see in Exhibit 814 which was under the TMPM and
6 Class EA.

7 Q. Did you complete the EA checklist
8 that's required under the access roads Class EA?

9 A. Personally I did not.

10 Q. Do you recall seeing that checklist
11 completed?

12 A. I honestly don't remember.

13 Q. As the author of the plan you would
14 have been responsible for ensuring full compliance with
15 the access roads Class EA; correct?

16 A. I'm not sure of the legalities of
17 that, if that's what you are referring to.

18 Q. Well, who has the ultimate
19 responsibility for the plan, the author; correct?

20 A. The district manager is my
21 understanding; i.e., the author submits it and it
22 was -- with the statement and if you look at the
23 covering page it says:

24 "I hereby certify that this plan has
25 been prepared under my personal

1 supervision and that all field work and
2 calculations have been carried out to the
3 best of my skill and judgment in
4 accordance with the Timber Management
5 Planning Manual for Crown lands in
6 Ontario."

7 Sign, sealed and delivered by myself.

8 That's not an approval of this plan.

9 Q. Is it the district manager then who
10 is responsible for ensuring compliance with the access
11 roads Class EA?

12 A. He in fact signs it and the final
13 statement under the district manager's signature is
14 that, I recommend that the plan be approved for
15 implementation.

16 Q. And prior to that he would have
17 undertaken a review to ensure that all existing
18 requirements were in fact complied with?

19 A. I would expect so.

20 Q. Can we turn to the NAN interrogatory
21 to which Mr. Bisschop has referred and that is Exhibit
22 878. Who wrote this answer?

23 MR. BISSCHOP: A. Mr. Lindgren, it was
24 an answer that was written by Mr. Kennedy and myself
25 after all of the discussions we had had with Mr.

1 Multamaki, with the district staff, primarily through
2 Mr. Groves' efforts on our behalf because he was in Red
3 Lake, discussions with the regional planning staff and
4 of all of our extensive searches we produced an answer
5 that spoke to the requirements that were met, that
6 spoke to the planning that was done for those roads and
7 it's reflected in the three paragraphs of discussion in
8 the answer.

9 Q. The first paragraph --

10 MR. FREIDIN: Mr. Chairman, yesterday I
11 rose and posed a question: How is all of this
12 relevant. I think you responded and posed some
13 questions of a legal nature as to what might or might
14 not be the consequences if all of the requirements were
15 not on some of these analysis met.

16 I took it from how that ended that that
17 was some sort of agreement that that was something that
18 perhaps may be of interest in some other forum but not
19 here, and I really question why we are going into this
20 again.

21 THE CHAIRMAN: Well, let's find out from
22 Mr. Lindgren where he is going. Where are you going?

23 MR. LINDGREN: Okay, it's a two-fold
24 direction, Mr. Chairman. First of all, I am trying to
25 determine whether or not there is an ability on the

1 part of the MNR to comply with a very clear condition.
2 That is a highly relevant issue not only to the
3 planning process that the Ministry is putting forward,
4 but to the terms and conditions it's suggesting as
5 well.

6 In addition to that, I will be attempting
7 to compare the elements of the FEPP and the Timber
8 Management Class EA provisions for road access planning
9 in an attempt to determine whether or not some of the
10 FEPP provisions are in fact superior, and I do intend
11 to put a number of specific questions to Mr. Bisschop
12 on that very issue.

13 THE CHAIRMAN: Well, I think it is fair
14 cross-examination to put questions specifically to the
15 witnesses to say that: Under the FEPP there is this
16 requirement, do you feel that this is a necessary or
17 better requirement than what is now required under the
18 class environmental assessment, get their opinion and
19 then leave as to whether you feel it is better or your
20 client feels it is better or worse to the introduction
21 of your own examination-in-chief of your own witnesses.

22 MR. LINDGREN: That is precisely my
23 intention, Mr. Chairman. However, I do think it is a
24 highly important issue to determine whether or not
25 there has been in fact compliance with condition No. 3

1 of the exemption order.

2 I think that's highly relevant because if
3 this timber management process is approved, we are
4 going to be relying upon the Ministry's ability to
5 confirm or comply with any terms and conditions that
6 are issued.

7 THE CHAIRMAN: All right. But we are
8 dealing - just a moment - we are dealing with one
9 example, the Red Lake Plan. They have indicated that
10 to his belief some of those requirements have been met
11 although they can't find any of the documentation and
12 they can't seem to recall whether or not all of those
13 required documents were in fact prepared.

14 Now, you can ask him questions - and I
15 think you have - as to where is that documentation, the
16 answer is we don't know; was it prepared, the answer is
17 we think so although we can't remember entirely; and
18 certainly Mr. Multamaki has indicated that he didn't
19 check or didn't see that all of that documentation was
20 there.

21 We have ascertained that the approval of
22 the plan is up to the director of the region or it's
23 submitted to the director and then it's approved I
24 suppose by the region and -- sorry, the district
25 manager and then approved by the region I believe, and

1 I don't think we have the district manager of the day
2 here.

3 Were you the district manager at that
4 point, Mr. Groves?

5 MR. GROVES: No, I am the forest
6 manager/supervisor and I was not in the district at the
7 time the plan was approved either, so...

8 THE CHAIRMAN: Okay. So we don't have
9 the witness on the panel who can say, I suppose
10 definitively, as to whether or not that documentation
11 crossed their desk, notwithstanding it has disappeared
12 or that it was in fact prepared.

13 Now, that is taking I think a quantum
14 leap to say that (a) none of that documentation was
15 prepared, we just don't know whether it was or it
16 wasn't; and, secondly, that even if it wasn't prepared
17 in that one case, in this Red Lake Plan, that that
18 automatically means that in every other plan that the
19 Ministry might prepare or company personnel might
20 prepare their ability to follow directions is somehow
21 impeded to the point that it can't be carried out.

22 MR. LINDGREN: I agree with that comment,
23 Mr. Chairman. However, this is the only plan we have
24 seen and this is the only plan that we can determine
25 whether or not there has been compliance with the

1 exemption order, and that was the import and intent of
2 those questions.

3 THE CHAIRMAN: Well, I think we have
4 ascertained that there may or may not have been
5 compliance.

6 I mean, do you have any further evidence,
7 Panel, that you can tell the Board as to whether
8 definitively it was complied with in terms of the
9 documentation requirements or they weren't?

10 MR. BISSCHOP: We have nothing further,
11 Mr. Chairman.

12 THE CHAIRMAN: So I don't know how you
13 can explore this further with this one example.

14 MR. LINDGREN: Okay. I take your
15 comments into consideration, Mr. Chairman.

16 Q. And let's turn to Mr. Fleet who
17 indicated yesterday that he has been involved with main
18 office and regional review of timber management plans.

19 How long have you acted in that capacity,
20 Mr. Fleet?

21 MR. FLEET: A. I am no longer acting in
22 that capacity, but I did act in that capacity for a
23 period of just under two years.

24 Q. And how many timber management plans
25 would you have reviewed in that time period?

1 A. Given that the timber management plan
2 production schedule is not entirely coincident with the
3 two years that I was there, I was involved with the
4 review of the tail end of some, the complete review of
5 others, and the initial stages of yet even more. The
6 complete review of the plans that I was involved with,
7 I believe, is eight or nine.

8 Q. Can you advise the Board whether or
9 not those eight or nine plans contained documentation
10 that demonstrated compliance with the access roads
11 Class EA?

12 A. In terms of plan review at main
13 office there at the time were four plan reviewers from
14 main office and there was a specific individual
15 responsible for the review of Crown plans.

16 I did review two Crown plans though
17 because of his workload and I predominantly reviewed
18 either company plans or FMA plans. In those plans
19 there was no compliance with FEPP because the FEPP
20 refers to Crown management units, and so those plans
21 were written under the TMP and Class EA.

22 For the two Crown plans that I was
23 involved with, there was no primary access roads that
24 were planned and, therefore, they too did not have to
25 comply with FEPP.

1 Q. Thank you.

2 MR. LINDGREN: This would be a convenient
3 time for a break.

4 THE CHAIRMAN: Okay. 20 minutes.

5 ---Recess taken at 10:05 a.m.

6 ---On resuming at 10:55 a.m.

7 THE CHAIRMAN: Thank you, be seated
8 please. The Board apologizes for the delay.

9 Mr. Lindgren?

10 MR. LINDGREN: I would like to start, Mr.
11 Chairman, by filing the next exhibit. It's an excerpt
12 from Book 5 of the Red Lake Timber Management Plan.

13 THE CHAIRMAN: Very well. That will be
14 Exhibit 882.

15 MR. LINDGREN: (handed)

16 THE CHAIRMAN: Thank you.

17 ---EXHIBIT NO. 882: Excerpt from Book 5 of the Red
18 Lake Timber Management Plan.

19 MR. LINDGREN: Q. Mr. Multamaki, can you
20 turn to page 63 of this exhibit, which is really the
21 second page of this document, and there there is a
22 Section 3 that is entitled: Class Environmental
23 Assessment Documentation.

24 First of all, can you confirm that this
25 section relates to your responsibility in terms of

1 ensuring that the planning process in the Class EA and
2 the Timber Management Planning Manual is followed?
3 This a description of the responsibility that you held
4 at the time?

5 MR. MULTAMAKI: A. Yes, that's correct.
6 You are looking at the first paragraph under No. 3?

7 Q. That's correct.

8 A. Okay.

9 Q. And can you confirm for me that the
10 various bullet points that follow that brief
11 description do not contain any reference to the access
12 roads Class EA?

13 A. No, it did not.

14 Q. And can I ask you then to turn to
15 page 119 of this document. It might be hard to pick up
16 because the staple seems to have gone right through the
17 number but, in any event, it's the planning team
18 minutes of October 3rd, 1986. And under Section 5
19 entitled: Road Access Program, we find two bullets that
20 read as follows:

21 "Presently in the preliminary stages
22 of identifying road options..."

23 Second bullet:

24 "Optional locations will be identified in
25 conjunction with wood identification

1 programs."

2 Mr. Multamaki, are those two bullets
3 referring to the corridors that were planned for the
4 Valhalla and Jamie Mine Roads?

5 A. As I remember, the optional bullet --
6 I guess let's deal with bullet No. 2:

7 "Optional locations will be identified in
8 conjunction with wood identification
9 programs."

10 That dealt specifically with the
11 secondary road locations and the road locations that
12 led to access into the allocations or the potential
13 allocations or the areas being selected for harvest.

14 And the first bullet point as I remember,
15 again, was -- mostly had to do with the actual physical
16 location of roads into areas that were being selected
17 for harvest or being proposed for harvest.

18 Q. Did the first bullet pertain to
19 primary roads?

20 A. No, not really. We were really
21 dealing with the secondary road access program,
22 although the Jamie Mine Road or Road No. 9, as I
23 remember it, it was a primary access road that would
24 have fallen under this because it provided access to
25 this five years' worth of wood; i.e., we were looking

1 at road locations that were going to be constructed for
2 access into allocations or areas being selected during
3 this five-year period.

4 Q. Can you confirm for me that section
5 No. 5 and Section No. 6 which is entitled:
6 Environmental Assessment Act Documentation, can you
7 confirm for me that both of those sections contain no
8 reference to the access roads Class EA?

9 A. No, they do not.

10 Q. Could I ask you to return to Exhibit
11 878 which is the NAN interrogatory. As Mr. Bisschop
12 has indicated this morning, the public notice that is
13 reproduced at page 55 contains the following statement:

14 "The primary timber road access proposals
15 are being planned and presented under the
16 approved MNR Class Environmental
17 Assessment for Roads to MNR Facilities."

18 Is there any evidence before us, Mr.
19 Multamaki, that this process was in fact followed?

20 A. Certainly not in the two minutes
21 that -- letters that you have placed in front of us or
22 submitted as documents or exhibits, as...

23 Q. Mr. Multamaki, we have reviewed the
24 entire contents of Book 5 and Book 6 and aside from
25 this notice we have found no references to the access

1 roads Class EA. Are you in a position to confirm that?

2 A. I would suspect that you are right,
3 that may be the only place that, in fact, it's referred
4 to in writing.

5 Q. In that sense then, Mr. Multamaki,
6 isn't the public notice referred to in Exhibit 878
7 somewhat misleading? You said you were doing one thing
8 and then, in fact, you didn't do it and did something
9 else?

10 Excuse me, Mr. Bisschop, I would like Mr.
11 Multamaki's response to that and then we will hear from
12 you.

13 A. No. I think, as I have already
14 stated, that we were looking at meeting the
15 requirements under the FEPP and, in fact, we used the
16 Class EA and the TMPM process to meet those
17 requirements, and the fact that we haven't got the FEPP
18 in writing splattered all over Book 5 doesn't reflect,
19 in fact, the situation that the requirements we met
20 them under or attempted to meet them under, the Class
21 EA and the TMPM.

22 Q. Did you advise in a subsequent public
23 notice advising members of the public that this was, in
24 fact, what you were planning to do; i.e., you were no
25 longer strictly following the access roads Class EA

1 and, in fact, you were following the TPM and the
2 Timber Management Class EA?

3 A. I don't think it was in either of
4 those public notices. I think --

5 Q. Would it have been instructive to
6 advise the public of that change?

7 A. Yes, perhaps it would have, assuming
8 that the important part was the documentation and not
9 the actual fact that the requirements were being met
10 under a different process.

11 Q. Mr. Bisschop, you had some comments
12 to add?

13 MR. BISSCHOP: A. The district planning
14 team was advised by the region at the beginning of the
15 exercise of the requirement to fulfill the obligations
16 under the exemption order.

17 Q. How was that instruction provided?

18 A. I believe Mr. Kennedy can help here,
19 but I recall in our search seeing a memo, I believe
20 from the region to the district -- from the regional
21 planning staff to the district providing that
22 direction.

23 Q. Mr. Kennedy, can you shed any light
24 on this matter?

25 MR. KENNEDY: A. Yes, I can. First I

1 will start off by saying that this paper trail that we
2 are pursuing is somewhat confusing because of the fact
3 that the fire had occurred in Red Lake and there was a
4 second planning initiative undertaken.

5 But in Book 8, which is the Pre-Fire No.
6 7 general supplementary documentation, at page 33 there
7 is a memorandum from the regional director, Don -- D.R.
8 Johnson, to the district manager of Red Lake dated
9 February 24th, 1986 and in there there is a -- the
10 subject matter is a follow-up to the regional review
11 team's meeting and there is a number of comments that
12 are offered, and I would like to read one portion of
13 those comments into the record:

14 "The requirements for planning primary
15 access roads as per EA exemption order
16 MNR 11-9 were discussed with your staff.
17 It was resolved that primary roads for
18 1986-91 would be planned using the field
19 environmental planning procedure. The
20 project proposals for the Valhalla Road
21 would include a discussion of alternative
22 corridor locations. Primary and
23 secondary roads should be presented on
24 the maps as corridors as per TPM manual
25 and Class EA."

1 Mr. Lindgren, I would also like to point
2 out that it's not surprising that there wouldn't be
3 full documentation within the timber management plan
4 itself as the documentation for that FEPP is viewed as
5 a separate exercise and it wouldn't necessarily be
6 included as part of the timber management plan as it is
7 not a requirement, it's an in-term situation where
8 there is a separate planning exercise undertaken, and
9 upon the eventual approval with the expected terms of
10 conditions of this Class EA, that condition would
11 disappear, if I could use that, and consequently
12 wouldn't show in a timber management plan.

13 Q. I note your comments, Mr. Kennedy.
14 If I understand them correctly then, you are indicating
15 that the FEPP process was a process that was separate
16 and distinct from the timber management process --
17 planning process that was carried out in Red Lake?

18 A. That's correct. And I can also
19 advise from my experiences that the same approach was
20 used in other districts, particularly in Dryden where I
21 was, it was handled in a separate fashion.

22 We were able to coordinate in some
23 instances the public notices, as well as the
24 information being available at information centres to
25 facilitate publics looking at information -- or, sorry,

1 making only one effort to review the information.

2 It was quite clear though in the
3 documentation for the Red Lake Plan that there was
4 specific instruction from the region to the district to
5 follow that planning process, and the initial public
6 notices -- or, sorry, the public notices do indicate
7 that the public was informed of that matter.

8 And at this point I am looking at page 39
9 of that book where there is specific reference to the
10 approved MNR Class Environmental Assessment for Roads
11 to MNR Facilities and this is part the answer that we
12 prepared in response to the interrogatory from NAN.

13 THE CHAIRMAN: Mr. Kennedy, would you
14 mind for the convenience of the Board, make copies of
15 those two documents you referred to so that we might
16 have them separately without having to go into the
17 actual plan books, because all of us of course don't
18 have a copy of the plan books?

19 MR. KENNEDY: The specific pages I made
20 reference to?

21 THE CHAIRMAN: That's right. The letter
22 of February plus that most recent document you referred
23 to.

24 MR. KENNEDY: Very good, Mr. Chairman, I
25 will make them available after the noon hour.

1 THE CHAIRMAN: And we will give it an
2 exhibit number at this time in order that it will fit
3 in with this part of the evidence. Also, would you
4 make it available to the other parties?

5 MR. KENNEDY: Yes.

6 THE CHAIRMAN: Exhibit 883. And what
7 will that comprise?

8 MR. KENNEDY: It will comprise of a
9 memorandum from the regional director to the district
10 manager of Red Lake with reference to EA exemption
11 order MNR 11-9.

12 MR. FREIDIN: And the date of the letter?

13 MR. KENNEDY: And the date of the letter
14 is February 24th, 1986.

15 ---EXHIBIT NO. 883A: Letter dated February 24, 1986
16 from Regional Director to
17 District Manager, Red Lake re:
exemption order MNR 11-9.

18 THE CHAIRMAN: And the second part of
19 that -- that will be A. And the second part of that?

20 MR. LINDGREN: Q. Mr. Kennedy, can you
21 confirm for me that there are different documentation
22 requirements under the FEPP than there are under the
23 Timber Management Class EA and the TMPM?

24 MR. KENNEDY: A. Yes, there are.

25 And, Mr. Chairman, the second, I would

1 suggest they include what is a covering letter that was
2 used with the public notice that I mentioned and those
3 are pages 38 and 39 from Book 8, and that is a letter
4 from the district manager to members of the mailing
5 list and that is with respect to the invitation to
6 attend the information centre. I would just like to
7 check one further reference, please.

8 ---EXHIBIT NO. 883B: Letter from District Manager to
9 members on mailing list re:
10 Information Centre for Pre-Fire
Plan (Page 38 & 39 Book 8).

11 MR. BISSCHOP: I could probably assist
12 here, Mr. Chairman. Those two references deal with the
13 pre-fire plan, so an additional reference that probably
14 we should include in the package then is the reference
15 that is actually referred to in the Interrogatory
16 Question, which is page 55 out of Book 5, which deals
17 with the information centre for the plan that was
18 produced.

19 THE CHAIRMAN: Okay. We will make that
20 Exhibit 883C.

21 ---EXHIBIT NO. 883C: Public Notice for second
22 information centre re: Post-Fire
Plan (Page 55, Book 5).

23 MR. FREIDIN: What is it -- what would
24 you describe it as? What is that document going to be,
25 page 55?

1 MR. BISSCHOP: It's the public notice for
2 the second information centre, the post-fire plan.

3 MR. FREIDIN: And could we have the date
4 perhaps of part B which was the letter from the
5 district manager to the mailing list?

6 MR. KENNEDY: The date of that is
7 February the 6th, 1986.

8 THE CHAIRMAN: And what is the exhibit
9 number for the plan itself, the 8th volume?

10 MR. KENNEDY: It's Exhibit 814 and this
11 is Book 8.

12 THE CHAIRMAN: Thank you.

13 MR. FREIDIN: Exhibit 818, I think.

14 MR. CHURCHER: Yes, I believe it's
15 actually Exhibit 818, Books 1 to 9.

16 MR. LINDGREN: That's correct, Mr.
17 Chairman.

18 Q. If I could sum things up to this
19 point, Mr. Kennedy, the public notice to which you just
20 referred, the public notice at page 55, indicates that
21 the primary access roads were being planned under the
22 access roads Class EA and, further, that the regional
23 director's letter specifically instructed the plan
24 author to plan access roads under the access roads
25 Class EA.

1 Is that a fair summary of the evidence to
2 this point?

3 MR. KENNEDY: A. I would suggest that
4 the letter is directing the district manager to ensure
5 that the planning team addresses the responsibilities
6 under that particular Class EA but, apart from that,
7 yes, that is a fair summary.

8 Q. And notwithstanding that direction, I
9 believe that Mr. Multamaki has indicated that there is
10 no evidence before the Board that, in fact, there was
11 compliance with the access roads Class EA?

12 A. I believe Mr. Bisschop has summarized
13 it by saying that we are unable to produce any
14 documentation that would illustrate if it has been
15 followed.

16 Q. Isn't that the same thing as saying
17 there is no evidence before this Board that there was
18 in fact compliance?

19 MR. FREIDIN: We have already been
20 through this.

21 THE CHAIRMAN: Well, I think the Board
22 certainly has been around the horn a couple of times on
23 this. There is obviously no evidence before the Board
24 confirming that there has been compliance. There isn't
25 any direct evidence either that there has not been

1 compliance, and the Board can make an inference from
2 the lack of documentation I think if it so chooses.

3 I think really, Mr. Lindgren, this is a
4 matter which goes to weight in terms of the credibility
5 of this particular evidence.

6 If I might just go on for a moment. The
7 Board would be most interested in ascertaining that
8 even if the documentation requirements were not in fact
9 adhered to in terms of condition 3 of the exemption
10 order, is your client alleging that there are
11 deficiencies in the planning of the road itself? I
12 take it we are talking about the Valhalla Road?

13 MR. LINDGREN: That's correct, except
14 that it was --

15 THE CHAIRMAN: And will you be
16 introducing evidence at some point in time to say that
17 notwithstanding the documentation requirements may not
18 be there and notwithstanding there may be
19 non-compliance in fact with the exemption order, which
20 is an entirely different matter as to what happens on
21 non-compliance or as a result of non-compliance, what
22 is the deficiency in terms of that particular example,
23 if that is what you are going to deal with?

24 I guess to make it simple: What is wrong
25 with the road, and if there is something wrong with the

1 road we would be interested in knowing what is wrong
2 with it because we would like to tie in what is wrong
3 with it either to a deficiency in the planning process
4 which led to whatever the problem with the road is, or
5 whether we are dealing here with really a matter of
6 non-compliance and how to ensure within the planning
7 process, to the extent that this Board has jurisdiction
8 to do so, that there will be compliance?

9 You see, it's terrific for the Board to
10 end up with a planning process that it specifies this
11 shall be done in accordance with these conditions of
12 approval, and if the parties want to allege: Well, you
13 can put in whatever condition you want, but they may
14 not be complied with, that is something that the Board
15 may or may not be able to address within it's own
16 jurisdiction. It may be up to other agencies to effect
17 compliance, whether it's under the Environmental
18 Assessment Act and the Ministry of the Environment is
19 charged with the enforceability of a condition of
20 approval which is imposed by this Board. That is one
21 question.

22 Whether or not the Board should, for
23 perhaps in a condition of approval that it might
24 consider imposing, ensure that other participants are
25 included in the monitoring team, if I might put it that

1 way, is another question, so that areas of
2 non-compliance can be identified early.

3 And what we are alluding to, and we will
4 be quite direct in our efforts to speed this thing
5 along and get to what we consider to be the nub of the
6 matter, if we are designing a planning process we have
7 to look at whether or not it's possible to comply with
8 it and, if it is possible to comply with it, how do you
9 go about ensuring in a reasonable way that there might
10 be compliance.

11 We are not dealing with a question
12 necessarily that what happens when there is not
13 compliance - that may be a whole separate matter to be
14 dealt with by another agency or an enforcement branch,
15 et cetera - but as part of the overall planning process
16 it may be justifiable for the Board to consider
17 ensuring that any planning team also includes others
18 who might be interested to ensure that requirements
19 which may be set out as requirements are met.

20 And so I think if you are going to allude
21 to the Red Lake example we might like to have any
22 evidence - and I am not asking you to give the
23 evidence, but perhaps through your own witnesses at
24 some stage - as to where in that exercise did they go
25 wrong.

1 We have some possible evidence that they
2 didn't meet the documentation requirements, at least
3 they aren't being produced before the Board at this
4 point in time, but notwithstanding that, that doesn't
5 necessarily in the Board's view mean that the planning
6 process itself was bad because there is a product that
7 comes out of a planning process, in this case a road,
8 and the road visits various impacts one way or the
9 other on the environment around it.

10 And so what we are saying is: What is
11 wrong with the road, if there is something wrong with
12 the road; and if there is something wrong with the
13 road, tie it back into the planning process, where did
14 it go wrong, where would whatever the deficiency is, if
15 it exists, have been rectified by an alteration to the
16 planning process?

17 We are trying to tie all of this evidence
18 into something practical that the Board can grasp in
19 terms of what it perceives its mandate is under this
20 application.

21 MR. LINDGREN: Well, I can assure you,
22 Mr. Chairman, that is our intention as well.

23 Of course we can't undertake at this time
24 to call evidence or determine what evidence that might
25 take the form of. I can assure you that we will be

1 looking at some of the issues that you have just raised
2 very, very closely, not only in Panel 16 which is the
3 monitoring panel, but also during the presentation of
4 our own case.

5 At this stage what I am intending to get
6 into next is possible deficiencies at the conceptual
7 level; i.e., what is in the FEPP that could have been
8 done or should have been done and what might have
9 resulted in a different plan or different components of
10 the plan. I think that's a legitimate direction to go
11 in.

12 THE CHAIRMAN: It's legitimate to the
13 extent that you point out the differences and perhaps
14 ask the panel to comment on the differences. I don't
15 think it's as legitimate for us to go into a complete
16 evaluation of the FEPP process because that's not
17 what's before us for approval.

18 MR. LINDGREN: But, Mr. Chairman, that is
19 an alternative, it is an alternative model that in fact
20 is an approved Class EA and I think certain components
21 of that Class EA can be presented to the witnesses on
22 this panel and --

23 THE CHAIRMAN: We are not questioning
24 presented, but what we are saying is, get directly to
25 it and put to them questions that you have taken out of

1 the FEPP process and ask whatever witness you want on
2 the panel: What do you think of this, or do you think
3 this is better than what is proposed or worse than what
4 is proposed, and we will get their opinions.

5 And then, as I said before, during your
6 own turn at the evidence, bring in your own witnesses
7 to agree or disagree with those positions taken.

8 MR. LINDGREN: Mr. Chairman, you have
9 anticipated my next section of cross-examination
10 precisely. However, before I move to it, I do have a
11 couple of clean-up questions to ask of Mr. Kennedy.

12 Q. Now, Mr. Kennedy you've made
13 reference to the letter that was sent from the regional
14 director to the district manager instructing him to
15 ensure compliance with the access roads Class EA;
16 correct?

17 MR. KENNEDY: A. Yes, I made reference
18 to that letter.

19 Q. In general, how does or how did the
20 MNR attempt to ensure that all staff in every unit
21 complies with the access roads Class EA?

22 A. I think at that point I can only
23 speak on the experience that I had while I was in
24 Dryden District at the time that the Crown plans were
25 being prepared there, and that was that the staff,

1 first of all, have the documentation, the Class EA for
2 access to MNR facilities in the district. There are
3 staff that are assigned the responsibility in Dryden to
4 ensure that the district met the EA requirements, both
5 for that Class EA and other EAs.

6 Also, the staff had received instructions
7 in a training session from regional staff and it was a
8 subject of discussion at the time that the plan was
9 being prepared and when the staff -- regional staff
10 were acting in an advisory capacity to the planning
11 team.

12 So it is in that fashion that I can
13 advise that, in my experience, that the MNR ensured
14 that local staff were aware of their commitments.

15 Q. Well, you have referred specifically
16 to a Dryden example. How is that done more generally
17 across the area of the undertaking? Is there any
18 direction, for example, coming from main office?

19 A. There is --

20 MR. BISSCHOP: A. Mr. Chairman, I could
21 perhaps address this in the sense that my position is
22 in what at the time was called Planning Environmental
23 Assessment Branch in the Ministry, so that that part of
24 the Ministry had the responsibility for environmental
25 assessment direction to the field offices.

1 What we did in 1986 is we provided
2 direction to those districts that were producing plans
3 that year - and I can't recall the number, but I do
4 recall there were a number of Crown management units in
5 northwestern Ontario - that we wanted them to apply the
6 new process under the December, '85 Class EA and the
7 December, '85 TPM but, at the same time, we had an
8 obligation under the exemption order MNR 11-9 dealing
9 with primary roads.

10 We provided verbally direction to our
11 regional planning staff about that obligation and they
12 in turn conveyed that to the district staff, and I
13 think in effect that's what the memo does.

14 THE CHAIRMAN: Okay. But just taking it
15 one step further - and I don't want to get into the
16 next panel's evidence - but having given those
17 directions verbally by memo, et cetera, the plan gets
18 prepared, it gets fed up to the district manager, it
19 gets sent on to the region and I take it somebody in
20 head office has the responsibility as well for
21 reviewing the plans until final approval is given?

22 MR. BISSCHOP: Yes, and Mr. Fleet spoke
23 to that.

24 THE CHAIRMAN: Right. And who has the
25 responsibility of saying to themselves when the plan

1 comes across their desk: Okay, here are the
2 requirements, they have been met, they haven't been
3 met?

4 MR. BISSCHOP: In terms of this
5 particular environmental assessment matter?

6 THE CHAIRMAN: Yes.

7 MR. BISSCHOP: The responsibility in that
8 case would have been with the region.

9 THE CHAIRMAN: The region, okay. And if
10 in fact there was non-compliance, the region is at
11 fault; right? In other words, if the regional--

12 MR. BISSCHOP: They should have caught
13 it, yes.

14 THE CHAIRMAN: --people look at it and
15 say there isn't the documentation that's required under
16 the process, at that stage they should be going back to
17 the district and saying: Do it again, fix it up,
18 provide the documentation, or whatever.

19 MR. BISSCHOP: Yes, that's correct. Now,
20 I would like to continue in terms of the aspect of
21 providing direction.

22 We were gaining experience with the plan
23 in the Class EA and the TPM, we still had the
24 obligations under the exemption order, we needed to
25 provide direction to the field to, in a sense,

1 integrate the two requirements and we ultimately did
2 decide to provide that direction in a written bulletin
3 from main office Planning and Environmental Assessment
4 Branch, and there was a bulletin issued in May, May the
5 3rd of 1988 on the subject of Timber Management
6 Planning (primary roads) Crown Management Units. The
7 number of the bulletin is PS40336.

8 THE CHAIRMAN: I take it that hasn't been
9 filed yet?

10 MR. BISSCHOP: No, I don't believe it
11 has.

12 MR. LINDGREN: Will you undertake to
13 provide copies to me of that bulletin that you are now
14 referring to?

15 MR. BISSCHOP: I am sure it can be
16 provided. I have a copy here we could copy.

17 THE CHAIRMAN: Okay. I think we should
18 perhaps exhibit that, Mr. Freidin. Do you have a
19 problem?

20 MR. FREIDIN: No.

21 THE CHAIRMAN: Exhibit 884.

22 MR. CASSIDY: Inasmuch as it is an
23 exhibit, Mr. Chairman, I would ask for a copy of that
24 as well.

25 THE CHAIRMAN: That goes without saying.

1 When we are making exhibits whoever is producing the
2 exhibit provides copies for everybody.

3 MR. CASSIDY: Thank you.

4 THE CHAIRMAN: So that is Bulletin No.
5 PS40336.

6 MR. BISSCHOP: That's correct.

7 THE CHAIRMAN: Is there a date on that?

8 MR. BISSCHOP: May the 3rd, 1988.

9 THE CHAIRMAN: Thank you.

10 ---EXHIBIT NO. 884: Bulletin from main office
11 Planning and Environmental
12 Assessment Branch No. PS40336,
dated May 3, 1988.

13 MR. BISSCHOP: Of interest, Mr. Chairman,
14 it is one of a package of bulletins that we issued at
15 the time. We've referred to some of them with that
16 same date that dealt, for example, with who gets direct
17 public notice. I referred to that previously in the
18 evidence. This is one of a series of bulletins we
19 issued to staff at that time.

20 What we were trying to do through that
21 bulletin was make it -- as I indicated, integrate the
22 two requirements and make it clear to staff what we
23 expected to happen and it deals primarily with
24 integrating the public consultation requirements of the
25 two documents.

1 THE CHAIRMAN: Sorry, of what two
2 documents are you referring?

3 MR. BISSCHOP: I'm sorry, the --

4 THE CHAIRMAN: The two planning
5 processes?

6 MR. BISSCHOP: That's right. The public
7 consultation requirements of the FEPP integrated into
8 those for a timber management plan. And I don't think
9 that I need to get into any further details about it,
10 it addresses the subject, so that we would have clear
11 direction.

12 Just to go back. In 1986 when we were
13 first dealing with this, again, the requirement would
14 only apply to Crown management units, it would only
15 apply to plans that were being produced during that
16 year and my recollection is that most of the Crown
17 management units at that time that were dealing with
18 this subject were in northwestern region.

19 MR. LINDGREN: Q. If I understand your
20 evidence correctly, Mr. Bisschop, this bulletin and the
21 verbal instructions that you referred to earlier were
22 provided to the regions and the regions in turn relayed
23 this information or this instruction to the districts?

24 MR. BISSCHOP: A. In the case of issuing
25 the bulletins themselves, I'm fairly confident in my

1 recollection that we sent them to the districts as well
2 as the regions directly.

3 MR. FREIDIN: I think the evidence about
4 going to the regions and then being transferred to the
5 districts was in fact oral instructions or discussions
6 back in 1986 that he referred to earlier.

7 MR. LINDGREN: Q. Is it fair to conclude
8 then, Mr. Bisschop, that the region is responsible for
9 ensuring compliance with the access roads Class EA?

10 MR. BISSCHOP: A. In terms of directly
11 making sure that the planning got done, yes. The way
12 that -- to my understanding, the way that the main
13 office would address this question of compliance would
14 have been through the normal program audit that is done
15 by main office and that is periodic and deals with
16 different regions in different years.

17 Q. Mr. Bisschop, let's now turn to the
18 access roads Class EA. I understand that you have a
19 copy before you?

20 A. Yes, that's correct.

21 MR. LINDGREN: And again at the outset,
22 Mr. Chairman, I would like to indicate that I do have a
23 few questions about the FEPP.

24 I have taken your comments of this
25 morning and yesterday into account. I have limited

1 myself to questions that tend to highlight the
2 deficiencies as we perceive them of the TMP process and
3 as well we intend to use the FEPP to identify possible
4 advantages of that system that might be incorporated
5 into the TMP process.

6 THE CHAIRMAN: That I think, Mr.
7 Lindgren, will be very helpful to the Board.

8 MR. LINDGREN: Q. Now, Mr. Bisschop, I
9 believe that you've testified earlier that in your view
10 there are certain similarities between the access roads
11 Class EA and the timber management Class EA in the
12 sense that the basic elements of the access roads Class
13 EA are somehow addressed or satisfied by complying with
14 the timber management Class EA?

15 MR. BISSCHOP: A. Yes. And for purposes
16 of making it clear, I would refer to those basic
17 elements as basic planning requirements, public
18 consultation requirements and documentation
19 requirements.

20 Q. I believe Mr. Kennedy indicated
21 earlier this morning, however, that there are different
22 documentation requirements under the FEPP?

23 A. Yes. And you will recall and the
24 Board will recall that I produced a summary of those
25 comparisons and differences in Exhibit 877, the last

1 four pages, 13 through 16.

2 Q. Now, yesterday when you addressed
3 this issue or this topic at the beginning of your
4 evidence yesterday morning you made the statement that
5 the access roads Class EA was designed for minor roads
6 not primary roads. Do you recall giving that
7 testimony?

8 A. Yes, that access roads Class EA was
9 very specifically produced for small road proposals.
10 It dealt with access roads to MNR facilities, such as
11 access points, garbage dumps, that sort of thing.

12 Through the exemption order it was
13 brought into play in timber management planning as a
14 means of getting environmental assessment style
15 analysis of roads in timber management plans as a
16 condition of the exemption order.

17 THE CHAIRMAN: Pending approval of this
18 Class EA?

19 MR. BISSCHOP: That's correct. It would
20 naturally expire upon expiry of the exemption order.

21 THE CHAIRMAN: So to that extent - excuse
22 me a moment - to that extent it would include primary
23 roads. Although it wasn't meant for that purpose when
24 the Class EA was approved it would, in effect, as a
25 result of the exemption order and being in this interim

1 period, also apply to primary roads; is that correct,
2 essentially?

3 MR. BISSCHOP: That's a fair and safe way
4 of interpreting, yes.

5 MR. LINDGREN: Q. Mr. Bisschop, can I
6 ask you to turn to page 12 of the access roads Class
7 EA.

8 MR. LINDGREN: Mr. Chairman, I have not
9 reproduced 12 copies of this document, it is not my
10 intention to file it as an exhibit. I will be filing
11 some excerpts from it, but for the purposes of these
12 questions I think it is sufficient that Mr. Bisschop
13 have the document in front of him.

14 Q. Now, in particular, Mr. Bisschop, I'm
15 looking at the second last full paragraph on page 12.
16 The paragraph reads:

17 "Roads built for forest management or
18 those to or in provincial parks are not
19 covered by this assessment. In the
20 future the procedures and guidelines
21 within this document may be applied in
22 whole or in part to these roads through
23 separate mechanisms."

24 Now, Mr. Bisschop, would you agree with
25 me then that this Class EA clearly contemplated that it

1 would -- or it may be applicable to forest access roads
2 at some point?

3 MR. BISSCHOP: A. And that is all it
4 said, it may be applied.

5 Q. That's right. Presumably the people
6 who drafted this access roads Class EA had that in
7 mind?

8 MR. FREIDIN: Well, no, no.

9 THE CHAIRMAN: It is hard to say what
10 they had in mind; isn't it?

11 MR. FREIDIN: Exactly, Mr. Chairman.
12 Let's not try to guess what somebody else may have
13 meant. Let's not get into that whole business again.

14 MR. LINDGREN: Q. Mr. Bisschop, did
15 you -- were you involved in the preparation of this
16 access roads Class EA?

17 MR. BISSCHOP: A. No, sir, this was
18 produced before I became employed by the Ministry of
19 Natural Resources. I think yesterday I dealt with some
20 dates. Just to make it clear again, I can't recall
21 when this was produced or when it was filed.

22 I do know that the first reference to the
23 use of this EA was a reference in MNR exemption order
24 MNR 11-3 which was dated April the 2nd, 1981 and it
25 referred at that time to this document as a draft. I

1 came to MNR in July of 1981.

2 So the document was -- had been produced,
3 had been filed formally as an environmental assessment
4 for approval with the Ministry of Natural Resources --
5 or with the Ministry of the Environment, I am sorry,
6 and I know that it was approved on April the 1st, 1982.

7 THE CHAIRMAN: Without a hearing?

8 MR. BISSCHOP: Certainly. It was dealing
9 with a very -- with small projects, Mr. Chairman.

10 MR. LINDGREN: Q. It deals with small
11 projects, Mr. Bisschop. Can you confirm for me that
12 the Red Squirrel Road in Temagami is being planned
13 under -- or was planned under the access roads Class
14 EA? Can you confirm that for me?

15 MR. BISSCHOP: A. I can't confirm. I
16 expect that it all has to do with the timing of the
17 timber management -- or the forest management plans and
18 operating plans at that time for the management unit,
19 and then I am not familiar with the dates that applied
20 to those management units.

21 It is possible that since the requirement
22 to use this process came into play on April the 2nd,
23 1981, it is quite possible, yes, that this requirement
24 would have applied to a management unit then, but I
25 can't be sure.

1 Q. Mr. Kennedy, are you in a position to
2 confirm that?

3 MR. KENNEDY: A. No, I am not. I am not
4 aware of any of the specifics in that situation.

5 Q. Well, picking up on your comment, Mr.
6 Bisschop, that it is possible that the access roads
7 Class EA was used in the Red Squirrel Road context, are
8 you indicating that the access roads Class EA was
9 somehow inappropriate or unsatisfactory to plan a
10 primary forest access road in that instance?

11 You have indicated that it was designed
12 for minor roads and yet it would appear as if it was
13 used for one of the most contentious primary access
14 roads in this province.

15 MR. BISSCHOP: A. I'm not saying -- I
16 don't think I would say that it's categorically
17 inappropriate. All I'm saying is that when the Class
18 EA was produced and designed it wasn't designed with
19 major roads in mind, major primary forest access roads.

20 Q. What are you basing that assumption
21 on, Mr. Bisschop?

22 A. It's as, I think as simple as the
23 paragraph that you referred to.

24 THE CHAIRMAN: Are there bump-up
25 provisions in that Class EA?

1 MR. BISSCHOP: Yes, Mr. Chairman, as in
2 any approved Class EA in Ontario.

3 THE CHAIRMAN: And, to your knowledge,
4 were any of the forest access roads that might have
5 been considered to be other than the smaller secondary
6 roads which might have come under that Class EA ever
7 bumped up on the grounds that they weren't just a small
8 secondary road, they were something more significant?

9 MR. BISSCHOP: To my knowledge, no. With
10 the qualifier that, again I can't speak to it directly,
11 the Red Squirrel Road situation may have fallen into
12 that kind of situation.

13 THE CHAIRMAN: Could it have been bumped
14 up, the Red Squirrel Road?

15 MR. BISSCHOP: Assuming that it was being
16 planned in accordance with the FEPP, yes. And in
17 effect -- whether the FEPP was used or not, in effect
18 that is what happened with the Red Squirrel Road in the
19 sense that an individual environmental assessment was
20 requested and was produced.

21 MR. LINDGREN: Q. You are aware that an
22 individual assessment was produced?

23 MR. BISSCHOP: A. I'm aware of that.

24 Q. And presumably it was produced under
25 the access roads Class EA?

1 A. No, it was an individual
2 environmental assessment, therefore, no Class EA would
3 have applied.

4 Q. That's right, but --

5 MR. FREIDIN: Mr. Chairman, I thought the
6 direction from the Board was or would be such that if
7 we looked at the paragraph that Mr. Lindgren is at, it
8 says:

9 "...in the future the procedures and
10 guidelines within this document may be
11 applied in whole or in part to these
12 roads through separate mechanisms."

13 If we added the words "if appropriate" I
14 think that would reflect the concern of the Board, and
15 the Board, as I understand it, is concerned about
16 whether there are things in this procedure which may be
17 useful and applicable and should be part of the process
18 that comes out of this for roads to be planned in the
19 future.

20 THE CHAIRMAN: Well, that --

21 MR. FREIDIN: The fact that it may have
22 applied to a certain kind of road in the past, in my
23 submission, doesn't add anything --

24 THE CHAIRMAN: Well, with the one
25 exception. We are all aware of the significance or

1 notoriety, if you might put it that way, of the Red
2 Squirrel Road which is, as I understand it, within the
3 area of this undertaking and we are also aware of the
4 fact that it may or may not have been planned entirely
5 pursuant to the roads Class EA, and I think it's within
6 the purview of this Board to try and understand if the
7 Class EA of April 1st, 1982, the one approved on that
8 date which applied to a major road within the area of
9 the undertaking was, in fact, the mechanism used, how
10 it all ties in to the planning process that we are
11 looking at today.

12 MR. FREIDIN: I don't understand when you
13 say 'how it all ties in'.

14 THE CHAIRMAN: Well, what mechanism was
15 used to plan that road. If it was the Class EA of
16 April 1st, '82, which was presumably primarily for
17 small secondary roads, and yet a larger or something
18 that could be considered a primary road was planned
19 under that mechanism under what circumstances.

20 MR. FREIDIN: But whether it did,
21 assuming that it did, that just indicates that it was a
22 road which that particular Class EA applied to and,
23 therefore, they followed that process.

24 And I don't see how that helps the Board
25 in assessing, in fact, whether there are advantages to

1 that process as compared to the process which we are
2 putting forward.

3 THE CHAIRMAN: Well, that's an example,
4 Mr. Freidin, within the area of the undertaking of an
5 access road that was planned and I think it is no
6 different, frankly, than the examples of the Valhalla
7 Road that was alluded to or any other example of any
8 other road planned to this point in time.

9 And I think it is within the authority of
10 of the Board to look at the planning process that was
11 employed in approving these roads and comparing it, to
12 the extent necessary, with what is being proposed today
13 under the application before the Board.

14 Again, the whole purpose of this is to
15 find out: Is the planning process that we are
16 considering the one that should be approved, or how
17 should it be amended or improved over what is proposed.

18 MR. LINDGREN: Q. And keeping those
19 comments in mind, Mr. Chairman, Mr. Bisschop will you
20 undertake to confirm that the Red Squirrel Road was
21 planned in accordance or under the access roads Class
22 EA?

23 MR. BISSCHOP: A. The original proposal?

24 Q. Correct.

25 A. Before the individual environmental

1 assessment was produced?

2 Q. That's correct.

3 A. Yes, I can do that.

4 THE CHAIRMAN: And if there was an
5 individual EA --

6 MR. BISSCHOP: There was, most certainly.

7 THE CHAIRMAN: Okay. That would have
8 taken it out of the Class EA?

9 MR. BISSCHOP: Exactly.

10 THE CHAIRMAN: And it would fall under
11 the EA Act period as an individual environmental
12 assessment with respect to a particularized
13 undertaking?

14 MR. BISSCHOP: That's right.

15 THE CHAIRMAN: And, therefore, a
16 compliance with 5(3), et cetera?

17 MR. BISSCHOP: That's right. And an
18 individual EA was produced, there was a government
19 review, there were requests for hearings, there was
20 denial of requests, et cetera.

21 THE CHAIRMAN: Well, we are familiar with
22 that part of it.

23 MR. LINDGREN: Q. That was part A of the
24 undertaking, Mr. Bisschop. Part B, on the assumption
25 that it was in fact planned under the access roads

1 Class EA, will you undertake to provide a copy of the
2 EA checklist and the project summary description that
3 would have been prepared under that Class EA?

4 MR. BISSCHOP: A. I will undertake to
5 search for one. I can't guarantee you I can find it.

6 Q. That's fair enough.

7 A. I will look for one.

8 THE CHAIRMAN: Best efforts, as we say.

9 MR. CASSIDY: It sounds like a discovery.

10 MR. LINDGREN: Q. Now, Mr. Bisschop, you
11 have indicated that you do have a certain familiarity
12 with the requirements of the access roads Class EA?

13 MR. BISSCHOP: A. Yes.

14 Q. Is it --

15 A. I just would qualify it, though, that
16 it is a familiarity from reading it, understanding it,
17 it is not a familiarity with having produced it or
18 applied it. So I know what I read and what I
19 understand.

20 Q. Mr. Bisschop, you are qualified as an
21 expert in environmental planning. Can you indicate
22 whether or not, in your opinion, can the class -- or
23 the access roads Class EA result in good environmental
24 planning if complied with?

25 A. Yes.

1 Q. Now, I have just referred briefly to
2 a document called the EA checklist. Are you familiar
3 with that document?

4 A. Yes.

5 MR. LINDGREN: Mr. Chairman, I would like
6 to file as the next exhibit a copy of the EA checklist
7 that is contained within the access roads Class EA.

8 THE CHAIRMAN: Very well. Exhibit 885.

9 MR. LINDGREN: (handed)

10 THE CHAIRMAN: Thank you.

11 ---EXHIBIT NO. 885: Copy of EA checklist contained
12 within Access Roads Class EA.

13 MR. LINDGREN: Q. Mr. Bisschop, can I
14 ask you to turn to the checklist, which is on the
15 second page, the page numbered 52?

16 MR. BISSCHOP: A. Yes, I have it.

17 Q. Can you confirm for me that the
18 access roads Class EA requires the district supervisor
19 to complete an EA checklist for each alternative? Is
20 that the case under the access roads Class EA?

21 A. It's required. I'm not exactly
22 familiar with this district supervisor who has to do
23 it, I assume he has to oversee its production.

24 Q. Can you confirm -- are you in a
25 position to confirm that the district supervisor is in

1 fact the proponent under the access roads Class EA?

2 A. Yes, in the sense that the access
3 Class EA applies to access for different purposes; for
4 example, access points, garbage dumps or whatever,
5 whichever supervisor, that being the lands supervisor
6 or the fish and wildlife supervisor or whomever, is
7 advancing the proposal would be considered the
8 proponent and, therefore, required to comply with the
9 requirements. So in that sense, yes.

10 Q. Can you confirm that the proponent
11 prepares and circulates with the checklist a
12 description of the main activity phases of each
13 alternative?

14 A. Yes, that's my understanding. By
15 activity phases, my understanding is the construction,
16 operation, use, maintenance, et cetera--

17 Q. That's correct.

18 A. --of the road.

19 Q. Now, turning specifically to the EA
20 checklist, can you confirm that if a particular
21 environmental component is unknown it must be marked as
22 such on the checklist?

23 A. Yes.

24 Q. And for these unknown environmental
25 components, the FEPP directs the proponent to study

1 these areas and to gather additional information. Is
2 that in fact the case?

3 A. I believe from my recollection of
4 reading it, yes, it says: Identifies information gaps
5 and requires that those be addressed so that the
6 subject of the effects on those components can be
7 addressed.

8 Q. The FEPP also specifically directs
9 the proponent to describe the environmental concerns
10 for each alternative and, further, the proponent is
11 required to describe them in a manner that is easily
12 understood. That is specifically found within the
13 access roads Class EA; correct?

14 A. Yes, that's right.

15 Q. As well, the access roads Class EA
16 requires that if these environmental concerns can be
17 mapped, they must be--

18 MR. FREIDIN: Can be...

19 MR. LINDGREN: Mapped.

20 Q. --they must be included on a map and
21 attached to the checklist?

22 MR. BISSCHOP: A. Excuse me, did you use
23 the word environmental components there?

24 Q. Environmental concerns.

25 A. Could you repeat the question,

1 please, sorry?

2 Q. If the environmental concerns can be
3 mapped, they must be mapped and attached to a
4 checklist -- to the checklist.

5 A. And I think that is why I asked the
6 question. As I understand the form, the column on the
7 left is environmental components which, by and large, I
8 identify as those features in the environment that are
9 of concern, many of which are mapped. One then
10 identifies whether or not those components exist and
11 are of concern to you in terms of the project you are
12 dealing with.

13 And then in the column on the right one
14 would describe the effects of the alternatives on the
15 components that have been encountered and
16 recommendations about what kinds of measures can be
17 undertaken to prevent, minimize or mitigate the effects
18 on those components.

19 So, in that sense, I'm saying in terms of
20 mapping components, the idea is that in the column on
21 the left which of those components, values exist and
22 then for those that exist, what are the concerns that
23 you have about the proposals or the alternatives
24 actually.

25 THE CHAIRMAN: Yes. But, Mr. Bisschop,

1 isn't the question that if concerns are identified and
2 they can be mapped, they must be mapped and a copy of
3 the map attached to the checklist. Is that not a
4 requirement of the Class Environmental Assessment, I
5 think that was the question?

6 MR. LINDGREN: That is correct, Mr.
7 Chairman.

8 MR. BISSCHOP: But I am suggesting, Mr.
9 Chairman, that I consider those to be the environmental
10 components, not the environmental concerns.

11 MR. LINDGREN: Q. Well, perhaps, Mr.
12 Bisschop, we can turn to page 54 of the document and I
13 am looking at the --

14 THE CHAIRMAN: I think, Mr. Freidin, we
15 are going to ask that you at least produce -- sorry,
16 Mr. Lindgren, you produce copies of the class
17 environmental assessment for the Board at some point.

18 MR. LINDGREN: For the Board?

19 THE CHAIRMAN: Yes.

20 MR. LINDGREN: Is it the Board's
21 intention to enter it as an exhibit or just to have it
22 for reference purposes?

23 THE CHAIRMAN: Well, I think probably --
24 I know we are going to refer to excerpts of it as you
25 go along in your questioning, but I think it would be

1 helpful if the Board had the entire document at some
2 point as well.

3 I don't know if you want to exhibit the
4 whole thing as opposed to the sections that you are
5 going to deal with, but we would like to have an
6 opportunity to look at it in context.

7 MR. LINDGREN: We can certainly undertake
8 to do that. Perhaps the Ministry might have a copy
9 that can be copied right now.

10 Or perhaps we can undertake to do that
11 over the lunch break.

12 THE CHAIRMAN: There is no immediacy
13 about that.

14 MR. CASSIDY: Well, if it's going to be
15 entered as an exhibit, and I don't have the size of it,
16 but there are other parties to the hearing who may want
17 to have a look at it, and if it is too onerous to have
18 it photocopied, I would at least like to have it
19 available in the reading room.

20 THE CHAIRMAN: All right. Why don't we
21 curtail this. We will give it an exhibit number and,
22 depending on it's size, if everyone can't have a copy,
23 the Board would like one copy.

24 MR. FREIDIN: It's a hundred pages, Mr.
25 Chairman.

1 THE CHAIRMAN: Well, can you afford a
2 hundred pages for a Board copy and one for the reading
3 room?

4 MR. LINDGREN: We can certainly provide
5 those copies.

6 MS. SWENARCHUK: Mr. Chairman, I wonder
7 if the Ministry has copies of this Class EA.

8 THE CHAIRMAN: Yes, what about -- I mean,
9 this is a public document and rather than placing this
10 particular obligation on one of the intervenors, could
11 not the Ministry arrange for sufficient copies of this
12 one document?

13 MR. FREIDIN: Sure. Sure.

14 THE CHAIRMAN: Taken in context of the
15 overall documentation--

16 MR. FREIDIN: We will do it, Mr.
17 Chairman.

18 THE CHAIRMAN: --of the hearing. Thank
19 you. Okay. Exhibit 885.

20 MS. SWENARCHUK: 6.

21 THE CHAIRMAN: Oh, sorry, 886. And that
22 will be the roads access Class EA April 1st, 1982.

23 MR. LINDGREN: That's correct.

24 ---EXHIBIT NO. 886: Access Roads Class EA dated April
25 (reserved) 1st, 1982.

1 MR. LINDGREN: And I would like to thank
2 Mr. Freidin for his generous offer.

3 MR. CASSIDY: And the province.

4 MR. LINDGREN: And the Province of
5 Ontario.

6 MR. BISSCHOP: Mr. Chairman, just to be
7 very clear, the copy that I know we have and that I
8 have is the copy that I believe was submitted for
9 government review with a letter that accompanied that
10 submission dated January the 30th, 1980.

11 THE CHAIRMAN: Yes, but it would have to
12 have had formal approval by the Minister of the
13 Environment; would it not?

14 MR. BISSCHOP: That's right.

15 THE CHAIRMAN: I know it didn't go a
16 hearing.

17 MR. BISSCHOP: Which was April -- I can't
18 recall the date.

19 THE CHAIRMAN: April the 1st, '82.

20 MR. BISSCHOP: April the 1st, '82. I
21 don't have a copy of that letter of approval. I don't
22 believe that the document has changed in that period of
23 time either.

24 THE CHAIRMAN: You mean there are no
25 changes resulting out of the review at all? That would

1 be strange I think. I suppose it's possible.

2 MR. BISSCHOP: Again, Mr. Chairman, it's
3 pretty well all before my time and even --

4 THE CHAIRMAN: Where is the Minister of
5 the Environment in all of this, Mr. Campbell?

6 (applause)

7 THE CHAIRMAN: It's your approved
8 document.

9 MR. CAMPBELL: Just a moment, Mr.
10 Chairman.

11 THE CHAIRMAN: I think you'll have to get
12 Mr. Sutterfield out of the bush for this week.

13 MR. CAMPBELL: There is not a hope in
14 hell of getting Mr. Sutterfield out of the bush this
15 week, let me tell you.

16 THE CHAIRMAN: We assumed that.

17 MR. CAMPBELL: Unless he has already shot
18 the moose, in which case he might be prepared to leave
19 but certainly not before.

20 To the extent that there would have been
21 a review prepared of that document it would -- that
22 review would reside in the files of the Environmental
23 Assessment Branch in Toronto, Mr. Chairman.

24 THE CHAIRMAN: But what is the process in
25 one that doesn't go to the hearing? After the

1 government review, whether or not there is a request
2 for a hearing, the Minister decides there won't be a
3 hearing and there is an approval, what form does the
4 document take, is it reissued as a complete document,
5 the approved document?

6 MR. CAMPBELL: The Class EA?

7 THE CHAIRMAN: Yes.

8 MR. CAMPBELL: If there are any
9 amendments those amendments would either be
10 incorporated in and reissued or there would be a
11 supplementary document that would be included in the
12 approval package and referred to in the documentation
13 under which the Minister issues the formal approval.

14 I am not precisely sure right now as to
15 whether that constitutes simply a certification or a
16 letter to the proponent advising them.

17 THE CHAIRMAN: All right. Well, do you
18 think that you could undertake to obtain the approved
19 copy of that document as approved by the Minister in
20 that form, not just a certification sheet, but the
21 Class EA itself?

22 MR. CAMPBELL: What you want is a copy of
23 the document in its approved--

24 THE CHAIRMAN: Form.

25 MR. CAMPBELL: --form according to the

1 records of the Ministry of the Environment?

2 THE CHAIRMAN: Yes.

3 MR. CAMPBELL: That's fine.

4 THE CHAIRMAN: Thank you.

5 MR. CASSIDY: And that would be
6 circulated to the parties?

7 MR. CAMPBELL: Why don't I put it in the
8 reading room. Do you want that to be this exhibit or
9 what do you want?

10 THE CHAIRMAN: Yes. Well, Exhibit 886,
11 that is what we would like it to be comprised of, the
12 final document.

13 MR. CAMPBELL: All right.

14 THE CHAIRMAN: Mr. Freidin on behalf of
15 the province undertook to copy it. You I suppose on--

16 MR. FREIDIN: On behalf of the province.

17 THE CHAIRMAN: --behalf of the province
18 could undertake to copy it. Let us just say that we
19 will rely upon the province to provide copies to both
20 the Board and I think the limited number of parties
21 that are here.

22 MR. CAMPBELL: Well, do you want me, just
23 in terms of a print run, are you talking about a copy
24 for the Board plus a copy for the reference room, or a
25 copy for all the parties?

1 THE CHAIRMAN: Well, I guess what I am --
2 is this document not in existence already or--

3 MR. CAMPBELL: Oh, yes, I am sure.

4 THE CHAIRMAN: --does it have to be
5 printed at the Queen's printer?

6 MR. CAMPBELL: I'm assuming that, to be
7 on the safe side, that I can't just go to a shelf
8 somewhere, nor can Mr. Freidin just go to a shelf
9 somewhere and pull a dozen copies off the shelf.

10 THE CHAIRMAN: Why not?

11 MR. FREIDIN: Don't speak for what I can
12 do, Mr. Campbell.

13 MR. CAMPBELL: Well, you offered to copy
14 it, and I am just saying I am saying that to be on the
15 safe side. I am not saying I know that to be the case.

16 THE CHAIRMAN: Okay. Why don't we do
17 this. I mean, there is a lot of documentation in
18 this hearing. Why don't we rely upon one of you two,
19 Mr. Freidin or Mr. Campbell, to arrange for copies of
20 the document to be provided to the Board and to the
21 parties in the normal course of providing the
22 documents.

23 We are not going to send it out to all of
24 the parties on the full-time list, we will put a copy
25 in the reading room for them, but for the ones that

1 comprise the parties in attendance on a regular basis,
2 which may be 10 or 12, whatever number we are up to, I
3 don't think that is too onerous for the province to
4 undertake.

5 MR. CAMPBELL: The people of Ontario will
6 be glad to provide the copies of this excellent
7 document which was vastly improved by the contributions
8 of both MNR and MOE.

9 THE CHAIRMAN: Okay.

10 (applause)

11 MR. CASSIDY: Thank you, Mr. Campbell.

12 THE CHAIRMAN: With that great flourish
13 at the end there, we are going to break for lunch.

14 MR. BISSCHOP: Mr. Chairman, one thing I
15 would like to be very comfortable with is that Mr.
16 Lindgren and I are speaking from the same copy of the
17 document.

18 MR. LINDGREN: We are.

19 MR. BISSCHOP: Okay.

20 MR. FREIDIN: You have got a completed
21 one?

22 MR. LINDGREN: You have referred to a
23 document with --

24 MR. BISSCHOP: The covering letter.

25 MR. LINDGREN: And I have the same

1 covering letter.

2 MR. BISSCHOP: And, as I understand it -
3 and you can maybe correct me - it is a copy of the
4 bound version of the Class EA with the bound cover?

5 MR. LINDGREN: Mine is not bound, but it
6 does have a covering letter dated January 30th, 1980 to
7 which you referred earlier.

8 MR. BISSCHOP: I think --

9 THE CHAIRMAN: No, but we don't know
10 whether that is the final approved copy; do we?

11 MR. LINDGREN: That's correct. But my
12 understanding, just to finish this off, is that there
13 were no changes between what was submitted and what was
14 approved.

15 THE CHAIRMAN: Okay.

16 MR. LINDGREN: We will find out.

17 THE CHAIRMAN: We will sort it out after
18 lunch. 1:30. Thank you.

19 ---Luncheon recess taken at 12:10 p.m.

20 ---On resuming at 1:30 p.m.

21 THE CHAIRMAN: Thank you. Be seated.

22 Mr. Lindgren?

23 MR. LINDGREN: Q. Mr. Bisschop, just
24 before the lunch break we were looking at Exhibit 885
25 and, in particular, we were looking at the

1 environmental assessment checklist, and there was some
2 discussion as to the mapping requirements for the
3 environmental components and conditions that are set
4 out on the left-hand column of that checklist.

5 And you may recall that I referred you to
6 page 54 of the access roads Class EA.

7 MR. BISSCHOP: A. Yes, that's correct, I
8 have that document.

9 Q. The final paragraph on that page
10 reads as follows:

11 "As each environmental concern is
12 identified with respect to one or more
13 environmental component, it must be
14 described so that it can be easily
15 understood. Furthermore, recommendations
16 must be made wherever possible to assist
17 the proponent in dealing with those
18 environmental concerns. If the
19 environmental concern can be mapped..."

20 And the example given is deer yard, osprey nest, canoe
21 route, et cetera,

22 "...it must be included on a map attached
23 to the checklist and referenced back to
24 the written form of the environmental
25 concern. Furthermore, the reviewers can

1 add to the list of environmental
2 components for the purposes of
3 introducing additional environmental
4 concerns."

5 MR. FREIDIN: I'm sorry, what page was
6 that again in the document?

7 MR. LINDGREN: Those were pages 54 to 55.

8 MR. FREIDIN: Thank you.

9 MR. LINDGREN: Q. So I will put my
10 original questions to you again just for your
11 confirmation, Mr. Bisschop. That section or that
12 paragraph directs the proponent to map the
13 environmental concerns where it's possible to do so and
14 these maps are to be attached to the checklist.

15 MR. BISSCHOP: A. Yes. And I must admit
16 to some confusion earlier and it is very clear here
17 that what is expected in terms of environmental
18 concerns here is in effect some more detail referring
19 to specific items that relate to the environmental
20 components that are in the left-hand column.

21 Q. Can you confirm for me, Mr. Bisschop,
22 that the EA checklist and the project description for
23 each alternative are designed to assist the proponent
24 and the district manager in identifying specific
25 concerns and in drafting appropriate mitigative

1 measures. Is that not the intent behind these
2 documentation requirements?

3 A. If I could have just a moment,
4 please.

5 MR. FREIDIN: Is there a specific part of
6 the document you could refer the witness to?

7 MR. LINDGREN: Q. Yes. Mr. Bisschop, if
8 you are on page 55, the fourth full paragraph down
9 reads as follows:

10 "Both of these documents are designed to
11 assist the proponent, the district
12 supervisors and the district manager in
13 identifying specific environmental
14 concerns and suggesting a set of
15 appropriate recommendations or mitigation
16 measures as they relate to each
17 alternative."

18 MR. BISSCHOP: A. That's correct. I was
19 taking the time to put all of this into some context in
20 terms of the entire discussion of step 2, and I just
21 wanted to be able to respond properly in terms of my
22 understanding of the organization of the entire step.

23 And I must confess, I have some concern
24 about how this whole discussion is described in the
25 sense that - and I am trying to search for it - I see

1 something not clearly addressed and that being the
2 subject of what are the effects on the concern that you
3 have.

4 That is why I said earlier, I understood
5 the left-hand column of the checklist to essentially
6 identify the values that you are concerned about, and
7 the right-hand column would say something about what
8 are the -- why are you concerned, what are the effects,
9 and what are you going to do about them and that
10 translates to recommendations.

11 As I am going through the document I am
12 trying to find out where is the discussion of effects,
13 and I am having some difficulty exactly pinpointing
14 that.

15 Q. Well, perhaps you can check that
16 perhaps at the break.

17 A. Yes. I may wish to come back to
18 comment on this step.

19 Q. That's fine. In fact, we may get to
20 that in the course of my questioning in a few moments.

21 We have just agreed, Mr. Bisschop, that
22 the intent behind the EA checklist, the project
23 description and the maps, if any are attached to the EA
24 checklist, the intent is to assist in the
25 identification of concerns and in the identification of

1 recommendations that will address those concerns.

2 MR. FREIDIN: Isn't that what you just
3 read him?

4 MR. LINDGREN: That's a rephrasing of the
5 essence of the statement.

6 MR. FREIDIN: And didn't he say that he
7 needed some time to think about that and see the
8 context in which it was in before he could answer that.
9 I thought that was what he was saying.

10 If I am right, then perhaps you should
11 give him that opportunity before he's asked further
12 questions on that matter.

13 THE CHAIRMAN: Is that your position, Mr.
14 Bisschop?

15 MR. BISSCHOP: Yes, Mr. Chairman. As I
16 indicated, I do believe I would like some time to read
17 through this so that I can make the connections I just
18 referred to. You have a value you are concerned about,
19 what are the effects on those values, what can you do
20 about those effects.

21 And in the discussion so far, I believe
22 through Mr. Lindgren's reference to environmental
23 concerns, we've dealt with the values side of it, we
24 have also dealt with the mitigation side of it, but I
25 would like to make sure that the middle part of it is

1 addressed and I can explain that clearly--

2 THE CHAIRMAN: Very well.

3 MR. BISSCHOP: --before the Board.

4 THE CHAIRMAN: Very well. Mr. Lindgren,
5 you will be back on Tuesday so that we can continue.
6 Would you review it over the weekend?

7 MR. BISSCHOP: Yes.

8 THE CHAIRMAN: Thank you.

9 MR. LINDGREN: Q. In your opinion, Mr.
10 Bisschop, is the EA checklist a useful exercise?

11 MR. BISSCHOP: A. I have difficulty with
12 checklists.

13 Q. And what is that difficulty?

14 A. I have difficulty that they become,
15 in effect, an end in themselves, that the emphasis
16 becomes one of making sure the checklist is filled out
17 rather than addressing the concerns or values that need
18 to be addressed.

19 I have some difficulty with, as I have
20 indicated, the items on the environmental component
21 side of the checklist and where are the details, for
22 example, the reference earlier to environmental
23 concerns seemed to identify the details, ospreys,
24 osprey nests and deer yards, for example.

25 In this case the checklist deals with -

1 on the environmental component side - many items that
2 probably are, for purposes of what we are dealing with
3 here at this hearing, probably are of southern Ontario
4 nature. Some of them are somewhat difficult to
5 comprehend; for example, if I am dealing with a -- we
6 are dealing with roads and I am looking at the
7 environmental component of water quality, I am not sure
8 exactly what is meant by the term 'suitability for body
9 contact recreation' and how do I address that in terms
10 of a road having an effect on that component.

11 So I think what I am saying is that in my
12 way of approaching things, the left-hand column should
13 identify clearly all the values including some more
14 details of them, and then one would address what are
15 the effects on those values.

16 In terms of the way we have approached
17 the same subject for planning of roads in timber
18 management planning, in fact planning in timber
19 management planning, is that we produce a values map
20 rather than a checklist.

21 We produce the values map that identifies
22 the concerns that we have on the forest management
23 unit, we take those concerns into account in road
24 location planning and where we effect them we know
25 exactly which values we are affecting and we can then

1 predict, estimate the effects that we would have on
2 those values and we could take measures to ensure that
3 those effects are prevented, minimized or mitigated.

4 So, in effect, we don't do a checklist
5 approach to it, rather we collect our data, we do our
6 planning in consideration of that information and we
7 address the components of the environment which we call
8 values that would be affected by whatever proposal we
9 advanced and our documentation of effects and what we
10 can do about them would relate to those specific values
11 that are affected by each proposal on a case-by-case
12 basis.

13 THE CHAIRMAN: Isn't the purpose of a
14 checklist normally just to ensure that you haven't
15 forgotten something, you have covered all the bases?

16 MR. BISSCHOP: I agree and that's what I
17 think I see as being the point of those that advance a
18 checklist and my concern is that --

19 THE CHAIRMAN: There may be a variety of
20 methods of covering off the questions raised in a
21 checklist, but it is my understanding that often a
22 checklist is used to say: Okay, there are 40 items
23 that cover all of the categories or issues that should
24 be canvassed in perhaps a particular situation, maybe
25 not all will apply.

1 You go through the list and you make sure
2 that you have at least addressed, to the extent that
3 any particular item applies to the undertaking in
4 question, everything on the list. How you may carry
5 out assessing or evaluating the items on the list may
6 be accomplished in a variety of ways, a values map may
7 be one way, a textual description may be another way,
8 different ways of generating data may be a third way.

9 Is that your understanding of the
10 approach used by the Ministry, or what approach do they
11 use?

12 MR. BISSCHOP: I guess to try to keep
13 this as much to the point as possible, I think what I
14 am saying is that we have done the equivalent of this
15 checklist in a sense through our list of values to map,
16 which we include in Exhibit 5A, and said: Look at this
17 list of items and map what exists about that list, and
18 we then carry that map onward, we don't bother carrying
19 the checklist onward.

20 And obviously when we carry out an
21 activity through road planning or area of concern
22 planning we become immediately focused on the value
23 that we are addressing and we address -- that we are
24 affecting, I'm sorry, and then we address the effects
25 on those values through the process and the

1 documentation requirements that we have for roads in
2 areas of concern.

3 THE CHAIRMAN: But how does one check to
4 make - I won't use the word check - how does one verify
5 that the items on the checklist have all been covered
6 one way or another; i.e., there is an explanation of
7 the items that specifically apply to the undertaking or
8 there is an explanation that a particular item does not
9 apply to this undertaking.

10 How can one assure themselves, a member
11 of the public, that you have in fact addressed
12 everything on the checklist in one form or another?

13 MR. BISSCHOP: First of all, an
14 opportunity to review and verify the information on the
15 values map itself.

16 THE CHAIRMAN: But does that correspond
17 to the checklist? In other words, can you trace from a
18 values map back to a checklist?

19 MR. BISSCHOP: Again, I am contending
20 that the items on the left-hand side of the checklist
21 are really no different, and I would contend that we
22 probably have gone into a level of more detail than our
23 list of items that one should address in terms of
24 producing the values map itself.

25 I would like to make sure I am very clear

1 on this in the sense that we, in effect, do that step,
2 if you will, earlier in producing the values map and
3 then we know with any activity we are going to carry
4 out in a certain area whether or not a particular value
5 is going to be affected, so we don't then have to
6 bother going back to check the list because we would
7 have done that in creation of the map itself.

8 MR. LINDGREN: Q. Well, Mr. Bisschop --

9 MR. MARTEL: How does the public know
10 that, Mr. Bisschop? If you were someone from the lay
11 public coming in, how can you ascertain precisely what
12 it is that you have gone through item-by-item to ensure
13 that all the bases, can I use that term, have been
14 covered?

15 And isn't this a form of -- if you were
16 to include this, then the public can say, just by
17 looking at what has been checked off, what you finally
18 arrive at is a values map or in conjunction with a
19 values map, let's put it that way?

20 MR. BISSCHOP: I can do the same thing by
21 simply - in the case of a road, for example -
22 overlaying a mylar overlay of the road location on top
23 of the values map and I immediately have an indication
24 of what values are affected. I don't have to then -- I
25 don't have to go back through the list to see whether

1 or not something is affected or not because I would
2 know from the values map.

3 MR. MARTEL: The point I am making is you
4 would know, but I am asking on behalf of someone from
5 the lay public who aren't quite as familiar as you are
6 with the process, how do they know?

7 You are asking people -- we are asking
8 and hopeful people will come in and be part of the
9 process who weren't involved in it every day, and they
10 come to an open house to look at all of this, they
11 don't bring with them the expertise, they have to have
12 something with which to work against, let's put it that
13 way, in terms of balancing things or ascertaining what
14 it is you looked at.

15 They aren't professional foresters, they
16 aren't biologists, they are just ordinary people in
17 many instances and I am simply saying: What have they
18 got to look at to ensure that, in fact, you have gone
19 through this process?

20 MR. BISSCHOP: Mr. Martel, if I could
21 take you -- and I think it is getting a little bit
22 further advanced, but if I could take you to page --

23 MR. MARTEL: I was just thinking what Mr.
24 Lindgren is leading to. I think he is leading to a
25 list somewhere down the road and there is a suggestion

1 that there will ultimately be some form of checklist, I
2 suspect, in addition to what you are already doing, or
3 it's a change that they might want. I think I am
4 right, but maybe I'm not, I have been wrong before.

5 MR. BISSCHOP: If I could, I would like
6 to try to make a point. If I take you to page 178 of
7 Volume I.

8 MR. FREIDIN: What page?

9 MR. BISSCHOP: 178 of Exhibit 813A.
10 Excuse me for a minute. If you could just hold your
11 finger there and also turn to page 213, okay.

12 On pages 213 to 215 we have identified
13 what I consider to be the equivalent and perhaps, in
14 some ways, a more detailed version of what's in the
15 environmental components column of the checklist. We
16 consider that list and produce a values map for each
17 management unit and, again, you are familiar with the
18 Timmins Forest values map.

19 In this case, assuming that we have made
20 our decision on the one-kilometre primary road
21 corridor, turning back to page 178, the red stippled
22 areas are, in effect, the values for the values map
23 with the area of influence added to create areas of
24 concern. Each one of those red areas is a unique
25 feature that corresponds to something from that list.

1 So I'm saying, in those cases, for
2 example, the three areas that I am affecting with the
3 more detailed planning of the road location, I know
4 exactly what's in them from the values map information.
5 I can then look at the question of what are the effects
6 I have on those values and I can describe that and I
7 can say something about what I might be able to do
8 about those effects.

9 To me, what I just explained is the
10 equivalent of going through this checklist, checking
11 things off that apply -- that occur, and continuing to
12 the right-hand column and saying something about what
13 are the effects and what can I do about them.

14 So what I am saying is that I don't need
15 the checklist at this stage to be able to do that job
16 and --

17 THE CHAIRMAN: But how does anyone else
18 know that you are doing the job?

19 MR. BISSCHOP: Okay. Admittedly they
20 would have to have that same understanding of the
21 process.

22 THE CHAIRMAN: And it is obvious that the
23 public would not have the same understanding to the
24 extent that you are trained in the area, you are
25 subjecting yourself and your staff to training

1 sessions, et cetera, and you would have - how shall I
2 put it - a more sophisticated understanding of what the
3 process is?

4 MR. BISSCHOP: But I do think I can make
5 it clear by -- I, we, the Ministry, planners, can make
6 it clear what the values map is and how it is used and
7 that essentially -- I am trying to address the question
8 that we do an equivalent of this, we do it in a
9 different way.

10 MR. LINDGREN: Q. Well, Mr. Bisschop,
11 you have given me a few comments that I would like to
12 perhaps clarify.

13 I think, Mr. Bisschop, that we can agree
14 that the checklist should not become an end in and of
15 itself and I wasn't asking you whether or not this
16 particular checklist was a good model, I think you have
17 indicated that it may be largely directed to southern
18 Ontario.

19 What I am more interested in is obtaining
20 your opinion as to whether or not at the general level
21 the EA checklist model is useful in terms of alerting
22 the road planners to certain issues, to certain
23 concerns and to require them to obtain further
24 information if certain concerns are unknown?

25 MR. BISSCHOP: A. Yes, and I would have

1 to agree with you. Yes, by its nature this checklist
2 is a technique that is used within MNR, it has been
3 used by other agencies dealing with environmental
4 assessments, it's a technique that we, however, are not
5 advancing in this Class EA.

6 Q. I take it then that you are not using
7 a checklist as a prior step to the preparation of a
8 values map?

9 A. No, I think you are incorrect there.
10 My reference to page 213 in effect --

11 Q. What exactly is that document; I'm
12 not clear on that?

13 A. Okay. It is -- in the evidence of
14 Panel 7 in which we talked about the description of the
15 environment affected at the management unit level, we
16 spoke to the kinds of information that MNR has
17 available, collects, assembles, et cetera, for use in
18 timber management planning.

19 And this list, albeit it is not all
20 inclusive and can't be, identifies most of the features
21 that are commonly encountered across the province. All
22 features are not encountered in every management unit
23 across the province, but we identify the array of
24 features that we do deal with and, in that sense, that
25 list is one that is used in terms of each management

1 unit, if you will, looking at whether or not they have
2 information about every one of those features and
3 information that they do have they would portray on a
4 values map for continued use in timber management
5 planning.

6 Q. Is it mandatory for the planners to
7 look at this document?

8 A. It's -- if by that do you mean do we
9 have specific direction to people to look at this list,
10 I can't say we have that mandatory specific written
11 direction. It's understood to be the source, if you
12 will, I guess, for the kinds of information that we
13 would expect to see portrayed on values maps for
14 individual management units.

15 Q. Well then, turning to the issue of
16 traceability, this particular list may be of some
17 assistance to some of the planners, but how does it
18 assist the public in the determination of whether or
19 not a particular value has been identified and/or
20 addressed?

21 A. Every values map would have an
22 accompanying legend, and assuming one would have this
23 list as well as that legend in front of them, you could
24 make the comparison of what does and does not exist for
25 that management unit, what information is or is not

1 available.

2 Q. Mr. Bisschop, wouldn't the EA
3 checklist model serve as a useful condition precedent
4 to the preparation of a values map so that when a
5 member of the public walks in they can determine
6 whether or not their address (sic) has been
7 concerned -- or has been identified and addressed?

8 Certainly it would make it easier for a
9 member of the public to identify areas or values that
10 have not been so identified and addressed?

11 A. Excuse me, are you saying would a
12 list such as this in the hands of --

13 Q. No, my question is: Wouldn't it be
14 useful if the MNR prepared an EA checklist based on the
15 model that we have before us in order to provide a
16 member of the public with some means of determining
17 that the values map has fully incorporated every value
18 that could be identified within the area?

19 A. We could provide them with a copy of
20 pages 213 to page 215.

21 Q. That--

22 A. Which is the equivalent.

23 Q. --I don't think would be that
24 helpful, Mr. Bisschop, for the reason that -- for the
25 reason being that it contains no equivalent to the

1 right-hand column on the EA checklist. It just, in a
2 generic sense, advises the public that some of these
3 areas might have been considered, but it serves --

4 MR. CASSIDY: Is this a question, Mr.
5 Chairman, or is he giving evidence?

6 MR. LINDGREN: I am coming to a question,
7 Mr. Chairman.

8 Q. And essentially it is the question I
9 just put to Mr. Bisschop and; that is, wouldn't this EA
10 checklist model be useful in order for the public to
11 trace value mapping?

12 MR. KENNEDY: A. Mr. Lindgren, if you
13 would allow me, I would like to speak of my experiences
14 that I have had at information centres and open houses
15 in conjunction with timber management planning.

16 You are really asking a question of Mr.
17 Bisschop as to, I believe in part, his experiences with
18 publics relative to timber management planning.

19 The experiences that I've had is that
20 members of the public are more interested in
21 site-specific items and they are coming with a
22 knowledge base and they are asking -- or we are asking
23 them to confirm the existing information that we have
24 in our files that we have transferred on to a values
25 map and also to add new information that they may be

1 aware of. The experience --

2 Q. Doesn't the EA check --

3 MR. FREIDIN: Let him finish, please.

4 MR. LINDGREN: Q. Doesn't the EA
5 checklist fulfill the same function?

6 MR. FREIDIN: Kindly let him finish the
7 answer.

8 THE CHAIRMAN: Just a moment, Mr.
9 Freidin. Go ahead, Mr. Kennedy.

10 MR. KENNEDY: I think that the -- as Mr.
11 Bisschop has indicated, that there are a variety of --
12 or he has not indicated there are a variety of ways - I
13 would do that. There are many ways in which that
14 intention can be fulfilled and certainly by displaying
15 the information on map form is how we found to be most
16 communicative and that the legend on the map serves
17 that purpose.

18 THE CHAIRMAN: Okay. Why don't we just
19 go back to Mr. Lindgren's original question and get a
20 very simple yes or no.

21 I believe his question was: Do you not
22 feel that an environmental checklist would be of
23 benefit to the public in trying to rationalize or
24 explain the value mapping? That to me could probably
25 be responded to by a yes we do or no we don't.

1 MR. KENNEDY: I would say no I don't in
2 the considerable experience that I've had dealing with
3 public and information centres.

4 THE CHAIRMAN: Okay, that's your
5 position.

6 MR. LINDGREN: Q. And, Mr. Bisschop, can
7 I ask you for your answer, seeing as you have been
8 qualified as the expert in environmental planning here?

9 MR. BISSCHOP: A. And I believe I gave
10 my answer by saying yes, I could provide pages 213 to
11 215.

12 THE CHAIRMAN: Well, no, let's go back to
13 the question just put to Mr. Kennedy. Yes or no, do
14 you feel an environmental checklist, I take it in the
15 form of Exhibit 885--

16 MR. LINDGREN: Correct.

17 THE CHAIRMAN: --would be of an assist to
18 the public in explaining value mapping? Just a yes or
19 no. We have gotten a no from Mr. Kennedy, what is your
20 bid?

21 MR. BISSCHOP: But you have added the --
22 I'm sorry, Mr. Chairman, you have added the qualifier
23 in explaining values mapping and --

24 THE CHAIRMAN: As an assist in explaining
25 values mapping.

1 MR. BISSCHOP: To explain values mapping
2 I would have to say yes.

3 THE CHAIRMAN: Okay.

4 MR. BISSCHOP: But to go further and
5 explain effects of anything you would propose on those
6 values, I don't agree that a checklist is the way to
7 address that question; rather I would want to direct my
8 efforts to documenting the effects on the values I
9 encounter and describe what I can do about those
10 effects so that I would produce a concise, written
11 documentation of what are the concerns I am dealing
12 with with that proposal and how can I --

13 MR. MARTEL: But couldn't you put that on
14 not only a list, but checking off the ones on your list
15 that in fact you identified that there could be a
16 problem and put the explanation in a form?

17 It might be a little different than this,
18 but a list and then a column down the right-hand side
19 with that explanation so that the public can look at
20 the map and look at what you have done and come to
21 their own conclusion: Yes, they are doing it really
22 well; or no, it's wrong.

23 MR. KENNEDY: Mr. Chairman, I think what
24 we have seen is that in the area of concern planning
25 process documentation that we have, as well as the

1 other maps that we require to be part of the timber
2 management plan, those dealing with areas of operations
3 for the five years and the road planning, go the next
4 level of detail where they do portray the kind of
5 values that are affected by those operations proposed
6 for the five years, and I think that is the time that
7 the --

8 THE CHAIRMAN: No, no. I think we
9 understand that, Mr. Kennedy. I think what Mr. Martel
10 and I are both alluding to is: Wouldn't it be helpful
11 in your opinion at the outset, since the value map
12 comes in at sort of the front end, if I might put it
13 that way, when the first open house is held, to have a
14 checklist with an explanation as to how the effects are
15 addressed in written form which somebody could sort of
16 take a look at the map, hold up the checklist with its
17 written explanation and get a synopsis almost in a
18 summary form to ascertain whether or not their concern
19 might have been addressed. Then there is a greater
20 level of detail, we understand, with the other
21 supplementary documentation, but would that not be
22 helpful, do you think?

23 MR. KENNEDY: Mr. Chairman, I do believe
24 that we have provided an element of that in our
25 planning process in recognition of the concerns that

1 you and Mr. Martel are voicing and that is through the
2 area of concern planning process, we do go to the
3 details, but then that information is summarized in the
4 form of Table 4.12.

5 There is information there that records
6 the final prescriptions, and I believe it is that that
7 people are most interested at in the information
8 centre. They come in wanting to know what is it that
9 is being proposed for the specific areas of their
10 interest, what kind of activities can they expect to
11 see, and they themselves then go through the, I would
12 suggest, go through the rationale in their own minds as
13 to is that sufficient protection for their values.

14 If they are looking for further details
15 at information centres, we take them to the specific
16 documentation provided for area of concern planning and
17 there you will find a listing in detail about the
18 information that is available on the resource, as well
19 as the options that are considered and the explanation
20 or the rationale for the final prescription.

21 So I believe by using Table 4.12 in a
22 summary form we are able to provide that information.

23 THE CHAIRMAN: It's your ballgame, Mr.
24 Lindgren.

25 MR. LINDGREN: Okay.

1 Q. Perhaps we could move on to the last
2 page of Exhibit 885, Mr. Bisschop.

3 MR. BISSCHOP: A. Excuse me, I don't
4 have the numbers. Is it this? (indicating)

5 Q. That's correct.

6 A. Okay. It is 885, Exhibit 885?

7 Q. That's right.

8 A. Thank you.

9 Q. Can you confirm, Mr. Bisschop, that
10 this is a summary checklist of the potential impacts of
11 access roads?

12 A. I do not recognize the table, and
13 perhaps I should but I don't.

14 Q. Well, perhaps you can take a moment
15 to review it.

16 A. Are you saying that this is a summary
17 table of the impacts that access roads would cause, or
18 is this an example of one page filled out for one
19 alternative in a representative example?

20 Q. Well, let's go through it, Mr.
21 Bisschop. Can you confirm that the column on the
22 left-hand side of the page lists the potential impacts
23 of the construction, maintenance and use of access
24 roads?

25 A. The column on the left-hand side

1 lists the potential impacts, is that your question?

2 Q. That was my question. Can you
3 confirm that?

4 A. It doesn't to the way I read it. It
5 describes features of the environment that might be
6 affected; for example, vegetation composition, unique
7 land features, aquatic invertebrates, et cetera. I see
8 those as components of the environment that are
9 affected, yes, values, if you will.

10 Q. That's correct. Mr. Bisschop, it's
11 the column across the top that lists the various road
12 construction activities and it's the black dots that
13 represent the potential impacts on the values listed in
14 the left-hand side?

15 A. Yes, and I would contend it's a very
16 simple representation that, yes, clearing can have an
17 effect on physical characteristic soils.

18 Q. In your view, Mr. Bisschop, would
19 this type of checklist serve as a useful reminder to
20 road planners about the full range of potential
21 environmental effects?

22 A. I would contend that the evidence of
23 Panel 14 would certainly be much better.

24 Q. Is there an equivalent to this
25 checklist in Appendix 2 or in the Timber Management

1 Planning Manual?

2 A. No.

3 Q. Is there a reason for that, Mr.
4 Bisschop?

5 A. Yes, and I think I have articulated
6 our position that in the Class EA we have not used a
7 checklist format for dealing with the subject of
8 environmental analysis.

9 Q. I agree that is your position, but
10 perhaps you can advise me why this particular model
11 would not serve as a useful precedent, a reminder, a
12 checklist - I don't care what you call it - for the
13 planning team?

14 A. Mr. Chairman, I believe I have
15 expressed my view, the Ministry's views on that already
16 and I don't think I need to rearticulate it.

17 MR. LINDGREN: Q. Well, with respect,
18 Mr. Chairman, I think that you should. This as an
19 example of a checklist of potential impacts that is
20 found in an approved class environmental assessment
21 that is currently being used or apparently being used
22 by the Ministry of Natural Resources in other
23 jurisdictions or for other reasons, and I am wondering
24 why that particular model is somehow inapplicable or
25 inappropriate or unsatisfactory for the planing of

1 access roads in forest management context?

2 A. I would suggest in some ways, in my
3 view, it is old thinking. In terms of environmental
4 analysis it represents techniques applied in the 70s
5 and early 80s. It doesn't fit our approach to planning
6 of timber management operations where we think, we
7 believe, we contend, we propose that we can do better
8 case-by-case analysis and deal with the values
9 encountered by the operations we propose in a specific
10 piece of geography and we can speak to the potential
11 effects of those operations and make management
12 decisions that will specifically address the values
13 that we encounter.

14 Q. Earlier, Mr. Bisschop, you referred
15 to some of the stages or steps of the access roads
16 class environmental assessment planning process and I
17 would like to very briefly take you and the Board
18 through that planning process.

19 MR. LINDGREN: And I would like to file
20 as the next exhibit a copy of the summary of the FEPP
21 and this is from the access roads Class EA.

22 THE CHAIRMAN: Exhibit 887.

23 MR. HUFF: (handed)

24 ---EXHIBIT NO. 887: Copy of summary of FEPP taken from
25 the Access Roads Class EA.

1 MR. FREIDIN: Mr. Chairman, if I just
2 might. For the record, I don't want anyone to get the
3 impression that in some way the Ministry of Natural
4 Resources was not going to, in fact, address the
5 differences between the forest -- the environmental
6 planning procedure and the present process. It is
7 coming up in detail in spades perhaps in
8 cross-examination.

9 I just want to make it quite clear that
10 the differences were set out in the exhibit that was
11 put in by Mr. Bisschop and it was our intention to have
12 addressed those differences in some detail. It is
13 taking place in this manner because we decided to deal
14 with it in a summary fashion.

15 MR. LINDGREN: Q. Turning to step 1, Mr.
16 Bisschop, the first step listed on Exhibit 887 is the
17 preparation of a project proposal. Is that the case,
18 Mr. Bisschop?

19 MR. BISSCHOP: A. That's correct.

20 Q. Can you confirm for me that this
21 project proposal is to include three main items?

22 This isn't on the check -- this isn't on
23 the summary itself, but this is from the content of the
24 access roads Class EA. Firstly, the project proposal
25 is to contain a definition of the purpose and rationale

1 of the project; and, secondly, a description of the
2 project, its alternatives and alternative methods of
3 carrying them out; and, thirdly, a description of the
4 general study area.

5 Are those not the three main components
6 of the project proposal?

7 A. That's correct.

8 Q. Would you describe this as
9 environmental assessment style documentation?

10 A. Those three items address part of
11 environmental assessment style analysis, yes.

12 Q. Can you confirm for me that under
13 step 1, once the project proposal is prepared, it is
14 reviewed by the district manager who must determine
15 whether or not the project is to proceed?

16 A. Whether or not the proposal -- I
17 would say the district manager addresses whether or not
18 the proposal should advance through the next steps of
19 planning.

20 Q. That's correct.

21 A. But he doesn't make a decision at
22 that time that the project ought to proceed.

23 Q.. You are quite right, Mr. Bisschop, on
24 that point. But this does represent a formal
25 opportunity for the district manager to approve or

1 reject the proposal at a very early stage; does it not?

2 A. Yes. And, again, I would simply like
3 to reaffirm that, as we have talked about this morning
4 and to date, a district supervisor advances a
5 particular project proposal and it's at this time that
6 the district manager is looking at that project
7 proposal, yes.

8 Q. Turning now to the timber management
9 planning process, is there an equivalent to this early
10 approval or denial stage?

11 A. The equivalent is that a timber
12 management plan must be produced. And as part of a
13 timber management plan the roads are a part of the
14 timber management plan. I am advised by my colleague
15 Mr. Fleet that if you were to refer to Volume I of
16 Exhibit 813A in the -- on page 252 where we have the --

17 MR. FREIDIN: Just hold on.

18 MR. BISSCHOP: On page 252, Mr. Chairman.
19 The very first point in the procedure is, in effect,
20 the indication from the forester to the district
21 manager that a plan -- that preparation of a plan must
22 be initiated and, in that sense, there is a project
23 proposal, if you will, coming to the district manager
24 that I would contend he concurs must advance to the
25 next stages of planning.

1 MR. LINDGREN: Q. Well, as I understand
2 that, it is a notification requirement, it's not an
3 approval or rejection stage; is it?

4 MR. BISSCHOP: A. What I have just
5 referred to?

6 Q. That's correct.

7 A. Well, I'm not sure the district
8 manager is in any position to reject the suggestion
9 that a timber management plan has to be prepared
10 because the existing plan is going to expire at some
11 time and a new plan would have to be in place to enable
12 operations to proceed, and the forester is notifying
13 the district manager that it's time to begin the
14 preparation of that plan in order to have a plan in
15 place on time.

16 So I don't think he has any approval role
17 at that point. He approves that, yes, you are right,
18 it's time to proceed and let's get on with it, yes.

19 Q. Isn't the only formal opportunity or
20 the only formal approval stage, would we find that at
21 the tail end of the timber management planning process?

22 MR. FREIDIN: Mr. Chairman, do we have to
23 go -- I think the witness has given his answer and it
24 seems to me that it is quite apparent or should be
25 apparent to everybody in the room that we are talking

1 about an undertaking which is a dynamic one which goes
2 on and is intended to continue to go on every five
3 years over and over and over.

4 We are not talking about the construction
5 of a one-time road or the imposition of a capital
6 structure on the environment and, in that sense, it
7 makes sense what Mr. Bisschop says, that the proposal
8 comes forward and the district manager says proceed.
9 And unless I am badly mistaken, I don't see that going
10 through this line of questioning is going to help
11 anybody.

12 MR. LINDGREN: Mr. Chairman, if I could
13 respond to that. We have heard that the timber
14 management planning process that the MNR would like to
15 have approved, and as it now exists it does not afford
16 any formal approval possibilities or opportunities
17 until the very end, on the assumption that we have to
18 have a plan in place on April 1st. That was the first
19 point.

20 I am merely making the comment that it's
21 conceivable that an alternative model could be
22 presented during the other parties' evidence.

23 THE CHAIRMAN: Right, and there is little
24 doubt an alternative model could be presented, but
25 would not the place to present that be in your own

1 evidence?

2 MR. LINDGREN: That's correct. As well,
3 the Ministry has indicated that in fact the 'do
4 nothing' or nil alternative is in fact an alternative
5 to this undertaking and it is referred to in the Class
6 EA.

7 MR. FREIDIN: It's an alternative which
8 is discussed in the evidence.

9 MR. LINDGREN: In any event, I am
10 prepared to leave the plan at this time.

11 Q. Returning to the summary of the FEPP
12 in Exhibit 887, Mr. Bisschop, can you confirm that
13 after the district manager -- or if the district
14 manager decides that the proposal should proceed to
15 step 2, the local office of the Ministry of the
16 Environment is to be notified?

17 MR. BISSCHOP: A. Mr. Chairman, just by
18 way of explanation. I apologize for my delay in
19 answering some of these questions. I am not completely
20 familiar with the FEPP, it's -- my role in MNR
21 environmental assessment has been very much to deal
22 with the timber Class EA.

23 I have become familiar with this document
24 but some of the specifics I do have some difficulty
25 dealing with, so I will need to take time.

1 MR. FREIDIN: Mr. Chairman, I think the
2 area he's getting into is step 2. It was in relation
3 to the last paragraph of step 2 that Mr. Bisschop
4 indicated earlier that he had to consider the entire
5 section on step 2. In was in that regard that you
6 indicated that he could have the weekend to look at it.

7 It seems to me that that might be an
8 appropriate way to deal with this whole matter so that
9 perhaps we won't have to be dealing with this
10 piecemeal.

11 THE CHAIRMAN: Can we deal with the
12 comparison here, Mr. Lindgren, on Tuesday?

13 MR. LINDGREN: I think that we can
14 proceed, Mr. Chairman. I am content to let Mr.
15 Bisschop reserve an answer where necessary, but I think
16 that the questions and the comments that I am trying to
17 elucidate are fairly straightforward and I don't think
18 it requires a great deal of further delay.

19 MR. FREIDIN: Only Mr. Bisschop can say
20 whether they are straightforward and he needs time.

21 THE CHAIRMAN: Okay. Well, why don't we
22 proceed with two or three more questions. If we are
23 going to get the same answer from Mr. Bisschop that he
24 has to consider it further, then I think we will have
25 to move on to some other area.

1 MR. LINDGREN: Okay.

2 MR. BISSCHOP: I have found your -- the
3 reference to your question on page 48 and, yes, having
4 decided to proceed, a notice is required to be sent to
5 the Ministry of the Environment.

6 The equivalent of that for timber
7 management planning would be the issuance of the first
8 public notice which, yes, the Ministry of the
9 Environment also receives.

10 MR. LINDGREN: Q. Is the Ministry of the
11 Environment invited to become a member or part of the
12 timber management planning team?

13 MR. BISSCHOP: A. I think Mr. Kennedy
14 has spoken to this subject in earlier evidence.
15 Ministry of the Environment at the field level of their
16 organization does not have staff resources available to
17 get involved in every timber management plan and they
18 are not invited to participate directly as part of a
19 planning team, either as members of a planning team or
20 advisors, they are notified that planning will proceed
21 and invited as any other interested participant to
22 participate to whatever extent they wish.

23 Q. Wouldn't it be useful, Mr. Bisschop,
24 to have the MOE on the planning team at an early stage
25 in order to solicit their input on the plan?

1 Let's leave it to the MOE to determine
2 whether or not they have the resources to participate
3 or to take you up on that invitation. Why has the MOE
4 been automatically excluded from the planning team?

5 A. They haven't been excluded, they
6 haven't been included. Again, we view our approach to
7 the involvement of others as being satisfactorily
8 addressed through the public consultation provisions
9 that we have.

10 THE CHAIRMAN: Has there ever been any
11 discussions between MNR and MOE as to what their role
12 should be in this stage of the process, the FEPP
13 process here?

14 In other words, have you sat down with
15 MOE and said: Look, do you guys want to be members of
16 the planning team and, if so, we are delighted to have
17 you, or have they come back and said: Don't mandate
18 that we be on because we can't provide the personnel
19 for all your plans or, you know, have there ever been
20 those kinds of discussions?

21 MR. BISSCHOP: In your question, Mr.
22 Chairman, you referred to the FEPP. I assume you are
23 referring more broadly to timber management planning?

24 THE CHAIRMAN: And timber management
25 planning as well.

1 MR. BISSCHOP: I can't -- I am trying to
2 recall whether there is specific discussions relating
3 to their involvement in planning teams. I can't recall
4 that.

5 I know we have had discussions about what
6 should be provided to the Ministry of the Environment
7 at various stages. Part of the discussion related to
8 the question of notification and certainly that is
9 where we made the commitment to notify the regions at
10 every stage of planning.

11 We came to the conclusion on providing
12 copies of the draft documents and the final approved
13 documents to the regional office and EA branch office
14 as a result of our discussions, but I don't recall that
15 there was ever any active discussion of their active
16 participation in recognition, I believe, of their
17 staffing limitations.

18 THE CHAIRMAN: Mr. Campbell, at some
19 stage in the game are you going to address that
20 question in your own evidence?

21 MR. CAMPBELL: Well, I may ask for some
22 clarification as to what specific advice MNR received
23 on this matter. I am certainly not familiar with it
24 and I don't say that in any way to contradict the
25 particular answer, it's just not a matter on which I

1 have informed myself.

2 I will clearly do so and I think I will
3 speak to Mr. Freidin. This is several times now that
4 this has come up about the MNR viewing that MOE
5 representation is not available because of staff
6 limitations.

7 All I can say is that to the extent -
8 assuming you put me on the spot - to the extent that I
9 have discussed it, it has been at the regional director
10 level and the view was expressed to me that -- the
11 particular regional director expressed the view to me
12 that, whereas they would not want a positive obligation
13 to be on all teams, the position was that it would be
14 helpful to be a member of the team from time to time so
15 one had a working knowledge of how the process worked.
16 That is the extent of my knowledge.

17 THE CHAIRMAN: Okay. I think it would be
18 helpful to the Board if you would undertake at some
19 stage to ascertain the position of the Ministry of the
20 Environment as to their desire to be included on
21 planning teams, if such a desire exists.

22 MR. FREIDIN: Well, Mr. Chairman, surely
23 wouldn't he be able to do that as part of his case?

24 THE CHAIRMAN: No, I am not suggesting
25 that he won't do this as part of his case, I am just

1 suggesting that arising out of these questions this
2 would be an area that the Board would be concerned or
3 interested in learning about.

4 MR. CAMPBELL: Well, I would undertake to
5 so obtain instructions and so advise the Board.

6 THE CHAIRMAN: Because if the Board is
7 considering questions such as you are raising, Mr.
8 Lindgren, we would like to know firstly if the Board,
9 after hearing all the evidence felt it also desirable,
10 for instance, that the Ministry of the Environment
11 should be included within planning teams.

12 It makes little sense to try and impose a
13 condition of approval if, in fact, that can't be
14 accomplished for a variety of reasons, staff
15 limitations being one, cost limitations being another,
16 or any number of other reasons.

17 But it would be nice to know what the
18 position of the Ministry of the Environment was as to
19 what they thought was appropriate given their own
20 particular mandate.

21 MR. CAMPBELL: Well, I can undertake this
22 much, Mr. Chairman. I will undertake to obtain
23 instructions and advise the Board of the Ministry of
24 the Environment's position.

25 THE CHAIRMAN: Right.

1 MR. CAMPBELL: I will not undertake to
2 necessarily put someone in the stand to speak to that.
3 It's up to others to put in evidence as to why they
4 think it may or may not be a good idea. I will advise
5 of MOE's position on the matter.

6 THE CHAIRMAN: That is what the Board is
7 asking for.

8 MR. FREIDIN: And I am just going to rise
9 and ask whether that same offer applies to my client?

10 THE CHAIRMAN: Well, as to whether -- we
11 can ask your client.

12 MR. FREIDIN: No, no, no. We have no
13 comment about whether -- never mind, it's lost.

14 THE CHAIRMAN: Okay.

15 MR. LINDGREN: Q. Mr. Bisschop,
16 returning to Exhibit 887, can you confirm for me that
17 under step 1, the public, the MOE and other government
18 agencies receive notice of the project proposal?

19 MR. BISSCHOP: A. That's correct.

20 Q. Can you confirm for me that under the
21 FEPP there is no 30-day time limit for these parties to
22 raise their concerns with the proponent?

23 A. I believe that's correct. I recall
24 not seeing any specified notice requirements in terms
25 of timing of the notice or response periods.

1 Q. Under the timber management planning
2 process, why has the Ministry seized upon the 30-day
3 period?

4 A. We feel it's reasonable and
5 responsible on our part to indicate advance notice and,
6 where required, some response periods so that we can
7 encourage information to be provided to us in a timely
8 way and that we can advance to the successive stages of
9 planning and accomplish the preparation of the plan in
10 a time period which hopefully is reasonable to the
11 public.

12 As it is we are talking about a year,
13 year and a half to complete the preparation and
14 approval of a timber management plan, and that time
15 frame is of concern to us, so we believe it's important
16 to have timely periods for responses so that we can
17 advance to the next stage and go to the public again as
18 rapidly and efficiently as possible to gather comments
19 at the next stage.

20 Q. Has the Ministry conducted any
21 studies to determine whether or not 30 days is
22 sufficient to allow the public to review and comment
23 upon TMPs?

24 A. We have prepared plans and we have
25 received responses in those time frames, that is -- I

1 suppose, one could argue that's a study. We have
2 received responses in time periods -- in those time
3 periods, we have received responses after 30-day time
4 periods that we still have addressed and incorporated
5 in timber management planning.

6 Q. Have you received complaints that 30
7 days is not enough time?

8 A. To my knowledge, the only complaint
9 we have received, and we made the adjustment, had to do
10 with the timing for the information centre, and I
11 believe our decision to change from 15 days to 30 days
12 advance notice of information centres related to
13 objections we had received in particular from tourist
14 outfitters through their parent organization NOTOA that
15 15 days was inadequate advance notice time and we've
16 made the adjustment to 30 days.

17 THE CHAIRMAN: Mr. Lindgren, you are
18 aware that under the Environmental Assessment Act the
19 same period or such other period as the Minister may
20 deem advisable is also applicable for any EA, at least
21 under the Environmental Assessment Act?

22 MR. LINDGREN: That is correct, but it's
23 my understanding that is a minimum time requirement.

24 THE CHAIRMAN: Yes, that's minimum, but
25 it is the time period unless extended by the Minister.

1 And I would suggest to you that it is a time period
2 that is used frequently, in fact, in connection with
3 some very major undertakings, one which is just about
4 to get off the ground, for example, the OWMC case, the
5 period was 30 days.

6 MR. LINDGREN: Q. One final question on
7 this matter, Mr. Bisschop. Has the MNR contemplated
8 extending these time limits or removing them entirely?

9 MR. BISSCHOP: A. We would not remove
10 them, we think that they are an efficient means of
11 gaining comment to contribute to the preparation of
12 plans. We would not formally extend them, I don't
13 believe, although we have always acknowledged that we
14 would not deny anyone the right to make a comment on
15 day 31.

16 I might add as well, we are dealing with
17 four different times for public consultation in the
18 preparation of the plan, each of them having a 30-day
19 response period. It's not as though we are dealing
20 with a one-time opportunity which is limited to 30
21 days.

22 Q. Let's move on to step 2 of the FEPP
23 and that is the analysis of the project proposal. Now,
24 Mr. Bisschop --

25 A. Which, as I indicated, in terms of

1 dealing with some of the details, I am afraid I will
2 need time to refresh myself on the details.

3 Q. Fair enough.

4 A. I could deal generally, if that is
5 what you wish to do.

6 Q. Well, why don't I try my questions
7 and we will take it from there.

8 Can you confirm that under step 2 the
9 proponent takes the public and government input,
10 completes the EA checklist for each alternative and
11 then prepares a detailed analysis of the proposal. Is
12 that a fair summary of step 2?

13 A. I am with you until the very end in
14 terms of detailed analysis of the project proposal.
15 Again, I would have to refresh myself. I am not sure a
16 decision is being made yet, there is the detailed
17 analysis of the alternatives through the checklist
18 technique.

19 Q. That's correct, a decision has not
20 been made at this point.

21 A. That's correct. I believe that is my
22 recollection, that you go as far as the analysis of the
23 alternatives in the detailed manner as specified by the
24 checklist.

25 Q. Can you confirm that this analysis

1 specifically calls for a consideration of environmental
2 concerns under four headings, those four headings
3 being: land use and tenure, land, water, and social
4 concerns?

5 A. That's correct.

6 Q. And this four-part analysis is to be
7 carried out for each of the alternatives?

8 A. That's correct.

9 Q. Now, this Class EA also identifies
10 seven broad areas of environmental concern that are to
11 be considered in this analysis; is that correct? In
12 particular I am referring to page 19.

13 MR. FREIDIN: When you say 'this EA', are
14 you talking about the access roads?

15 MR. LINDGREN: Access roads Class EA.

16 MR. FREIDIN: Thank you.

17 THE CHAIRMAN: That is the one we don't
18 have in front of us?

19 MR. LINDGREN: (nodding affirmatively)

20 MR. FREIDIN: I have one that somebody
21 told me if I marked, serious injury or death would
22 occur to me if I marked it.

23 THE CHAIRMAN: Maybe we should order you
24 to produce it then.

25 MR. FREIDIN: You win.

1 MR. LINDGREN: Q. Mr. Bisschop, on page
2 19, can you confirm that there is a broad heading
3 entitled: Areas of Environmental Concern?

4 MR. BISSCHOP: A. Yes. Mr. Chairman,
5 again, part of my difficulty here is, I believe the
6 section that he is referring to is the part of the
7 Class EA itself -- the Class EA Document itself that,
8 as in the case of our Class EA, describes effects.

9 It's part of the Class EA Document and
10 the Class EA, like all Class EAs, includes a planning
11 procedure which is the FEPP. I am not sure of the
12 relationship to draw between the discussion he's
13 referring to in terms of its utility in the FEPP.

14 Q. I'm not ...

15 THE CHAIRMAN: Mr. Lindgren, how can we
16 resolve this without sort of eliciting the same type of
17 answer from the witness in the sense, I think what you
18 are really saying is, you want the time to review the
19 FEPP procedure and the Class EA Document itself?

20 MR. FREIDIN: Mr. Bisschop?

21 MR. BISSCHOP: I need the time. I think
22 what he's referring to on -- starting at page 19 is
23 really a discussion within the Class EA Document itself
24 of: these are the effects, the range of effects, the
25 range of values and it's the reference to the seven,

1 and the effects that are incurred on those values that
2 I wish -- that MNR has documented in the Class EA
3 Document itself.

4 And, in that sense, perhaps it's a
5 source, if you will, of the kind of effects that one
6 would want to consider in applying the FEPP much as we
7 have our Chapter 11 in our -- in the Timber Management
8 Class EA Document which spoke about effects that would
9 serve as a source for anybody applying the planning
10 process to a particular timber management plan.

11 It's my understanding of how this Class
12 EA is structured in comparison to any Class EA, they
13 are all similar. There's a discussion in one part to
14 meet the requirements of Section 5(3), there is then a
15 planning process which is to be applied to projects in
16 the future.

17 THE CHAIRMAN: Okay. But are you in a
18 position to answer questions put by Mr. Lindgren
19 without having had an opportunity to look at the
20 document that was tendered to you for the first time
21 today?

22 MR. BISSCHOP: I don't believe I am
23 comfortably in the position.

24 THE CHAIRMAN: Okay.

25 MR. BISSCHOP: I have had no working

1 experience with these documents, I wasn't involved in
2 their preparation, I am somewhat familiar with them,
3 it's been some time. I did look at them in detail
4 early on in my work on the timber Class EA. I have
5 only referred to them very recently again in
6 anticipation -- well, to be quite frank, in preparation
7 of my comparison in Exhibit 877 on FEPP versus timber
8 Class EA when it came to road planning.

9 THE CHAIRMAN: Okay. Well, I think this
10 area of questioning is certainly important to Forests
11 for Tomorrow and the Board is interested as well.

12 We would like your answers one way or the
13 other and I don't think it is doing us much good to get
14 your partial qualified answers when we are only going
15 to have to revisit the same thing next week after he
16 has had an opportunity to check it out.

17 If he gives the answers today, Mr.
18 Lindgren, he will probably come back next week and want
19 to clarify it after having read the document.

20 MR. LINDGREN: That's quite conceivable,
21 Mr. Chairman, and in the interest of fairness I am
22 content to defer further questions on this particular
23 Class EA until Tuesday and perhaps by that point the
24 other parties might have copies of the document as
25 well.

1 MR. BISSCHOP: I'm sure I will enjoy my
2 weekend, Mr. Chairman.

3 MR. CAMPBELL: Well, I am running the
4 printing press.

5 THE CHAIRMAN: It's a long one, we gave
6 you the extra day.

7 MR. LINDGREN: Q. Well, perhaps, Mr.
8 Bisschop, if we can change gears and leave the FEPP for
9 awhile and turn now to the five-year detailed planning
10 process for roads.

11 Now, as I understand your evidence, Mr.
12 Bisschop, the five-year planning process essentially
13 consists of identifying and locating 100-metre
14 corridors for AOCs and 500-metre corridors for all
15 other areas. Is that a fair summary?

16 MR. BISSCHOP: A. Yes, that's correct.

17 Q. Is the planning team required to
18 conduct any field studies or inventories of the values
19 within the selected corridor along the five-year
20 length?

21 A. The assembly of information is
22 done -- in terms of values that are potentially
23 affected, is done through the preparation of the values
24 map. The determination of the location of roads would
25 take into consideration those values.

1 The decisions in areas of concern on the
2 exact location of the hundred metre location of the
3 road would be something that I believe would involve a
4 level of field examination where it's possible.
5 Certainly much of it would be done through air
6 photointerpretation. I think in Mr. Multamaki's
7 example of the Red Lake Plan he's referred to field
8 inspections by aerial observation of road crossings of
9 streams, for example.

10 But just to summarize, the values
11 information is available through the values map. That
12 information is taken into account in determining
13 locations and, where possible, appropriate, some level
14 of field examination either on the ground or in the air
15 would be conducted in terms of determining locations.

16 Q. How often and under what
17 circumstances would that occur?

18 A. The field examination?

19 Q. Correct.

20 A. I perhaps should deflect that
21 question to those on the panel who have some experience
22 with that.

23 MR. KENNEDY: A. I don't think I can
24 give a general answer as to how often across the area
25 of the undertaking, but I know it was common practice

1 for Crown and companies in the area that I worked in to
2 inspect areas at the time of corridor selection.

3 MR. MULTAMAKI: A. Perhaps I can provide
4 a little bit of an operational view on crossing areas
5 of concern.

6 It has been my experience that when you
7 deal with areas of concern for road corridor purposes
8 you are usually talking about crossing streams, rivers
9 and so on.

10 These tend to be expensive construction
11 situations and, in most cases, you want to be
12 reasonably sure of exactly what the situation is and,
13 in most cases, that involves some type of field
14 inspection; it may be a fly-over, certainly
15 photointerpretation work, map work, quite often field
16 inspections, on-the-ground field inspections and
17 commonly a fly-over and an examination of those
18 crossings. And the rationale behind that is that a
19 mistake can be extremely costly.

20 For example, a misjudgment on the size of
21 the stream, the type of stream, the crossing location
22 can cost you not only money; i.e., you have to put in a
23 larger crossing or a different type of crossing, but it
24 can also create an uncomfortable situation of having to
25 go through a plan amendment because of that crossing;

1 i.e., you have to locate the crossing someplace else.
2 So it's not in -- operationally it's not in our best
3 interest not to know what we are talking about there.

4 Q. And that answer was specifically
5 limited to stream crossings; is that correct?

6 A. No, I would say that generally is an
7 answer where you are concerned about things that may be
8 a problem for road construction. For example, if from
9 photointerpretation work you have some suspicions or
10 some strong indications that there are topographic
11 features that may pose a problem for road access
12 purposes, generally you go out and have a look at it.

13 The rationale being, if you are going to
14 try putting a road in a location that's going to cost
15 you five times what it would be someplace else, it is
16 worthwhile going out and having a look at it. If you
17 are not sure and if you are uncomfortable about that
18 decision as a unit forester, a plan author, I prefer
19 being comfortable about what I am planning for.

20 Q. Let me just back up one step. We
21 have had the values map prepared and the planners have
22 identified a one-kilometre corridor which hopefully
23 misses some or all of the preliminary AOCs that have
24 been identified. Correct, Mr. Bisschop?

25 MR. BISSCHOP: A. Again, with the minor

1 qualification I spoke to this morning, generally you
2 will be trying, yes, to avoid impinging on those areas
3 of concern.

4 Q. So to give you a hypothetical,
5 suppose we have a one-kilometre corridor that to your
6 knowledge, based on the values map, does not traverse
7 an AOC, would the Ministry go out into the projected
8 five-year length of the road within that corridor to
9 determine if there are in fact no AOCs that might be
10 traversed or affected by the road?

11 A. Yes, I'd say that would happen
12 within the one-kilometre corridor using the information
13 from the values map and any other information that may
14 come forward, as well as -- if you recall the concern
15 related to water quality, all streams that are
16 identified on topographic maps would automatically be
17 identified as areas of concern within that
18 one-kilometre corridor.

19 So there would be a level of additional
20 information to identify values within the corridor and
21 then where those values are encountered, if they are
22 going to be traversed, a detailed planning of a
23 100-metre location for the road would have to be
24 determined. And the example of the stream crossing is
25 often referred to there to demonstrate the point.

1 Again, Figure 5 on page 178 of Exhibit 813A
2 demonstrates this.

3 Q. Now, picking up on your comment that
4 all stream crossings are AOCs --

5 MR. FREIDIN: All stream crossings on
6 topographic maps.

7 MR. BISSCHOP: All streams are AOCs.

8 MR. LINDGREN: All streams are AOCs.

9 Q. My notes indicate that on October 3rd
10 Mr. Multamaki stated that all stream crossings are
11 AOCs. Do you recall giving that testimony, Mr.
12 Multamaki?

13 MR. MULTAMAKI: A. Yes, I think what you
14 are referring to is in Book 7, Document 814. The sixth
15 paragraph states that all stream crossings are
16 considered areas of concern and, in fact, what that was
17 is, it reflected the documentation that existed in
18 conjunction with the road access package for the Red
19 Lake Crown Management Unit Plan and it was
20 unit-specific based on the plan being prepared at that
21 time.

22 Q. So does that statement apply
23 generally across the area of the undertaking, Mr.
24 Bisschop? Mr. Kennedy?

25 MR. BISSCHOP: A. Yes, in the sense that

1 all streams identified on 1:50,000 topographic maps
2 would become areas of concern when it came to the
3 question of road planning, yes.

4 And I know it's a fine matter of words,
5 but to me it's the stream that's the area of concern,
6 it's the crossing that we determine having looked at
7 the area of concern.

8 Q. And very briefly, the reasons why a
9 stream crossing is considered to be an AOC I presume
10 are related to potential effects such as siltation or
11 flooding --

12 A. Effects on water quality. Just to go
13 back, the subject of all streams on 1:50,000
14 topographic maps was brought into the whole planning
15 process through MOE's involvement with us in terms of
16 addressing their concern on water quality.

17 Originally we dealt with streams with
18 known fisheries values. Additional streams, i.e., all
19 other streams that would appear on 1:50,000 topographic
20 maps have been brought into the process through
21 accommodation -- recognition and accommodation of MOE's
22 concern regarding water quality and it is an obvious
23 concern with respect to roads.

24 Q. If water quality is the primary
25 concern about roads that cross areas of -- that cross

1 streams, why aren't shorelines of lakes, rivers and
2 other water courses considered to be AOCs for the
3 purposes of road planning?

4 THE CHAIRMAN: Well, for one, you don't
5 cross a lake; do you?

6 MR. LINDGREN: No, but the road could go
7 beside it and cause some of the same effects, as I
8 understand some of the evidence to this point.

9 THE CHAIRMAN: But are not the areas of
10 concern around lakes?

11 MR. BISSCHOP: All waterbodies and
12 streams -- all waterbodies of a certain size and
13 streams as portrayed on a map would be, assuming
14 operations would occur in their vicinity, would be
15 considered areas of concern.

16 MR. LINDGREN: Q. If the primary or
17 secondary road does traverse an AOC, Appendix 2 of the
18 Class EA applies and the planners must produce an
19 environmental analysis of alternative road locations.
20 Is that a fair summary of the evidence?

21 MR. BISSCHOP: A. That's correct.
22 That's what Appendix 2 is about, it requires detailed
23 planning, considering alternatives, analysing
24 alternatives and rationalizing a decision on a
25 preferred...

1 Q. It also includes an analysis of the
2 potential environmental effects?

3 A. Yes, that's correct.

4 Q. The planning team is then instructed
5 to determine the significance of those environmental
6 effects. And I am wondering, Mr. Bisschop, if you
7 could tell me what objective criteria the planning team
8 uses to determine these environmental effects, or the
9 significance of these environmental effects?

10 A. I think the explanation of how we
11 address the subject of significance is addressed on
12 page 3 of Appendix 2.

13 Just to recap briefly, we identify
14 alternatives in step 1. Step 2 has three parts, we
15 identify the effects of each of the alternatives; and,
16 secondly, we determine the significance of those
17 effects. In effect we are asking ourselves the
18 question: So what about the effects.

19 And without reading it into the record,
20 the paragraphs beginning at line 21 on page 3 indicate
21 what's involved in that step and the fact that the
22 determination of significance may be based on
23 information that's quantitative or qualitative and the
24 qualitative side of it is brought to the planning
25 process by the varied representatives on the planning

1 team and their backgrounds, plus any contributions that
2 might be made by the various external participants
3 through public consultation.

4 There is no specific direction about how
5 do you determine significance other than consider
6 whatever quantitative information might be available to
7 address the question and qualitative material -- or
8 qualitative information dealing with, for example, the
9 perceived value of features encountered and the
10 perception of the sensitivity of those features to a
11 disturbance.

12 MR. LINDGREN: I have perhaps two or
13 three more questions and then perhaps we can take a
14 break.

15 Q. In the determination of the
16 significance of those effects, Mr. Bisschop, would it
17 be advisable or desirable to have policies or
18 guidelines or bulletins, directives in place to assist
19 in the determination of significance?

20 MR. BISSCHOP: A. Again, I think we have
21 dealt with this subject, the Ministry has in various
22 panels of evidence.

23 I probably could best take one back to
24 evidence that Mr. Clark has given in various panels in
25 which he has, I think, indicated that -- I believe he

1 has indicated that we deal with the subject on a
2 case-by-case basis and we make our decisions based on
3 the information that's available case by case and the
4 contributions of affected parties.

5 So, in that sense, I wouldn't want -- I
6 don't believe it is possible to provide specific
7 direction other than do what is required on a
8 case-by-case basis to address the question of effects
9 and their significance.

10 Q. Would you characterize this
11 determination as a subjective matter?

12 A. In many ways it is very much so.

13 Q. And given that it is a subjective
14 matter to a large degree, how are those decisions
15 traceable to members of the public?

16 How will they be able to determine how
17 and to what extent these effects were considered and
18 were weighted and evaluated and assessed in some
19 manner?

20 A. The traceability is intended to
21 happen through the documentation that accompanies each
22 consideration of the application of the planning
23 requirements here.

24 For a road crossing area of concern, it
25 is expected that one could trace the decision that's

1 made, the consideration of effects and their
2 significance in that documentation.

3 MR. LINDGREN: This is an appropriate
4 time for a break, Mr. Chairman.

5 THE CHAIRMAN: Okay. 20 minutes.

6 ---Recess taken at 3:05 p.m.

7 ---On resuming at 3:35 p.m.

8 THE CHAIRMAN: Thank you. Be seated,
9 please.

10 MR. LINDGREN: At the outset, Mr.
11 Chairman, I would like to indicate that I will probably
12 be another 20, 30 minutes approximately at which time I
13 will be handing it over to Ms. Swenarchuk.

14 Q. Mr. Bisschop, I would like to turn
15 briefly to the issue of tertiary road planning. I
16 believe that your evidence to this point has indicated
17 that there are no locational planning requirements for
18 tertiary roads because -- or largely because it is
19 difficult to determine in advance where they are going
20 to go; is that correct?

21 MR. BISSCHOP: A. That's correct.

22 Q. Can you please explain the precise
23 reasons why some form of locational planning can't be
24 done in the tertiary road context?

25 A. Again, in terms of specifics it's

1 probably best to speak again to some of the -- to have
2 some of the foresters on the panel speak to the
3 practical situations which make that difficult.

4 We've indicated in the planning process
5 that that is the situation. It is also felt that it's
6 not necessary at the five-year level to identify where
7 those roads would go, rather we have taken the approach
8 that it's perhaps -- the approach to take is to
9 identify where those roads should not go and, if
10 necessary, where there should be conditions on the
11 roads.

12 And I guess I should say that in terms of
13 specifics it is probably best that someone with
14 practical background in operations and the locating of
15 tertiary roads in carrying out those operations provide
16 an answer.

17 MR. KENNEDY: A. I can indicate that I
18 never really sat down and made a list before, but when
19 you mentioned it I just jotted down a couple of things
20 that come to mind.

21 I wouldn't suggest this is all inclusive
22 by any means, but it is difficult to plan and I would
23 suggest darned near impossible to plan tertiary roads
24 for a variety of reasons including, it would require
25 the determination of the exact logging method that

1 would be employed on a particular site, it would depend
2 upon the size of equipment that the individual
3 operators are using --

4 THE CHAIRMAN: Can you slow down a little
5 bit, please.

6 MR. KENNEDY: The first point was the
7 type of logging method that was being employed on the
8 site, the size of the particular logging equipment in
9 use would have to be determined as in different
10 machinery has different capacity, if I could use that
11 phrase, and that would reflect on the spacing of roads.
12 The density of wood, the volume of wood in a particular
13 area would affect the road placement. The season of
14 harvest would have to be predicted with some precision.

15 It would require specific knowledge of
16 the topographical features in the local situation, more
17 detailed than can be determined from aerial
18 photointerpretation and topographic maps.

19 Mr. Lindgren, those are the things that
20 readily come to mind. As I have indicated, I have not
21 thought of it in that context before.

22 Q. It strikes me, Mr. Kennedy, that to a
23 large degree you already have most or all of that
24 information while the plan is being drafted, for
25 example?

1 MR. KENNEDY: A. No, we do not make
2 decisions of that nature -- of all of that nature to
3 cover those topics. For instance, we do not indicate
4 which season a particular block or stand would be
5 harvested in. In some circumstances that can be
6 determined, we do not make that as a rule.

7 The difference within one year would
8 make -- or, excuse me, if you are thinking of comparing
9 winter harvesting to snow-free season, there can be a
10 difference in the placement of roads within the
11 snow-free season. For instance, in early spring if the
12 ground is moist it would affect the specific location
13 of where a road was built.

14 The amount of aggregate material present
15 in an area and its location is another factor which is
16 unknown at the time of planning. The size of logging
17 equipment employed by each individual operator as the
18 variations described in Panel 10, the range of
19 equipment that's available and the economic situations
20 that various operators are in. All of those things are
21 not looked at at the time of preparing the five-year
22 plan.

23 Q. Are they looked at during the
24 preparation of the annual work schedule?

25 A. There is consideration given to many

1 of those in terms of the -- or recognition, I would
2 suggest, in the manner in which the licensing of the
3 wood occurs and that can occur at the annual work
4 schedule level.

5 Q. And once that information is
6 determined at the annual planning level, my question
7 again is: Why can't some rough form of locational
8 planning for the tertiary roads take place?

9 A. Okay. Again, there are other factors
10 that come to bear, such as the fluctuations of markets
11 within a particular season or year would indicate an
12 uncertainty as to which portions of the allocation
13 would be harvested first.

14 I know of some situations where it is
15 desirable to supply spruce at a particular time of year
16 for mill consumption depending on the kind of
17 fluctuations in the markets that can occur seasonally.
18 So that's an indication of the kind of difficulty that
19 is encountered and, as I have indicated, it is darned
20 near impossible to make those kind of locational
21 predictions.

22 Q. Mr. Kennedy, can you confirm that
23 Appendix 2 of the Class Environmental Assessment
24 Document is not applicable where a tertiary road is
25 crossing an AOC? Appendix 2 only relates to primary

1 and secondary roads; correct?

2 A. That is correct. In Appendix 1 where
3 we deal with the area of concern planning, we do deal
4 with conditions that are applied on tertiary roads. So
5 we are able to indicate for specific values the kind of
6 conditions that should be imposed on tertiary roads to
7 ensure protection or recognition of those values within
8 the area of concern, and it is through that method that
9 we feel we are able to ensure that there is adequate
10 protection of those values.

11 Q. I take it that if those conditions
12 are imposed, Mr. Kennedy, some form of Ministry
13 monitoring will take place to ensure compliance with
14 those conditions; is that the case?

15 A. That is the case, and you have also I
16 believe heard evidence from this panel that a
17 monitoring program is intended to be included with each
18 prescription for an area of concern or groups of areas
19 of concern, and we will be leading evidence on that
20 matter in Panel 16.

21 Q. Well, harkening back to Panel 14, Mr.
22 Kennedy, you may recall that Mr. Tenaglia indicated
23 that the Ministry doesn't keep records of where these
24 tertiary roads are and, in fact, the Ministry doesn't
25 have a good idea where they are.

1 Would you agree, Mr. Kennedy, that in
2 those circumstances it is exceptionally difficult to
3 determine compliance with conditions?

4 THE CHAIRMAN: Yes, but is not the
5 evidence that where they may not know where the
6 tertiary roads are, they do know where the tertiary
7 roads aren't or are not supposed to be?

8 MR. KENNEDY: That is correct, Mr.
9 Chairman. I can advise that I have not had the
10 opportunity to follow all of the evidence of Panel 14.
11 I'm aware of some snippets of it.

12 In this case you are correct, Mr.
13 Chairman, in your observation that for areas of concern
14 we would be looking at a compliance monitoring program
15 which would be looking at: Have the conditions
16 associated with that area of concern been adhered to.
17 So, as such, there would be records that would document
18 the inspections and observations that had been made
19 relative to those prescriptions.

20 MR. McNICOL: Mr. Lindgren, perhaps to
21 help you more. I was party to the evidence that was
22 presented in Panel 14 and also the re-examination.

23 That question came up in re-examination,
24 Mr. Tenaglia's response to the question was that since
25 supplementary aerial photography is taken of all

1 harvested sites in preparation for other activities
2 that may occur on the land base from a silvicultural
3 standpoint, that indeed we do have a record of where
4 those tertiary roads are.

5 MR. LINDGREN: Q. Is that always done,
6 Mr. McNicol?

7 MR. McNICOL: A. Virtually always, yes.

8 Q. Mr. Tenaglia indicated that the
9 Ministry does not inspect tertiary roads in areas of
10 normal operation. Is your evidence now that the
11 Ministry does undertake inspection in the AOC context?

12 A. That's not what I said. What I said
13 was -- and your question I thought related to where
14 tertiary roads existed on the land base. What I
15 indicated was that through the use of supplementary
16 aerial photography we do have those locations after the
17 fact.

18 Q. To step back a little bit further, my
19 original question was: How does the Ministry go about
20 determining compliance with conditions that relate not
21 only to location, but perhaps other conditions that
22 might have been opposed?

23 MR. KENNEDY: A. And I think you are
24 best to await the evidence of Panel 16.

25 Q. One final question, again referring

1 to the evidence of Mr. Tenaglia. He did agree that
2 tertiary roads can entail the same potential
3 environmental effects as a primary or secondary access
4 road. And my question to you then, Mr. Kennedy, is:
5 If a tertiary road is to cross a known AOC, why aren't
6 the provisions of Appendix 2 applicable?

7 A. I think a simple answer is because
8 the provisions of Appendix 1 are applied.

9 Q. Would you agree with me, Mr. Kennedy,
10 that under the timber management planning process the
11 Ministry relies heavily upon the identification of AOCs
12 by Ministry staff and by the public during the initial
13 planning stages.

14 For example, during the public review of
15 values maps, basically the Ministry is hopeful that
16 staff or members of the public who have concerns about
17 areas of concern will bring these forward to the
18 Ministry's attention?

19 THE CHAIRMAN: How else do you suggest
20 that they be brought forward?

21 MR. LINDGREN: Well, the Ministry could
22 undertake a proactive approach and actually go out and
23 try to look for it themselves as opposed to sitting
24 back and waiting for this information to filter back.

25 MR. KENNEDY: Mr. Lindgren, I think there

1 has been considerable evidence led as to the Ministry's
2 program of data collection, particularly with reference
3 to Panel 7.

4 But I would agree with you that if you
5 were to substitute the words "values", "features",
6 "land uses" and "users" in the context of your question
7 that, yes, we do have a very active program, we have a
8 significant amount of information on file and available
9 to the planning teams at the district level, we make
10 that available in a summary form by way of a values
11 map, we invite the public to review that information
12 and confirm its existence and to add new information,
13 and when we are finished we do believe that we have a
14 very good inventory of the kind of known values,
15 features, land uses, and users that are there on the
16 management unit at the outset of planning prior to any
17 form of decision-making.

18 MR. LINDGREN: Q. It is conceivable
19 however, Mr. Kennedy, that not all the values and areas
20 of concerns will be identified up front and if the
21 public and members of the Ministry staff don't become
22 aware -- are not aware of these values and areas of
23 concern, would you agree with me that it is
24 exceptionally difficult to know in advance what AOCs
25 will be affected by tertiary roads?

1 MR. KENNEDY: A. I would agree with you
2 that our staff do not know the unknown.

3 Q. I don't think that was the question.

4 THE CHAIRMAN: I think the Board
5 canvassed this area at one earlier stage and the fact
6 that, it is unlikely you can cover every square inch of
7 the forest estate and, frankly, unless you cover every
8 square inch of the forest estate there may be a value
9 you missed. There has to be a reasonable limit placed
10 on any kind of data collection; would you not agree?

11 MR. LINDGREN: I would agree, however, I
12 think that one such reasonable limit could be the areas
13 that have been allocated for harvest. We know that
14 with some degree of certainty at the annual work
15 schedule level and perhaps that could--

16 THE CHAIRMAN: So what is your point?

17 MR. LINDGREN: --form the focus. Well, if
18 we know what is going to be allocated for harvest, we
19 know there is going to be tertiary roads somewhere.

20 THE CHAIRMAN: So you cover every square
21 inch of the land base that has been allocated for
22 harvest?

23 MR. LINDGREN: Perhaps in some manner
24 that could be done on an annual schedule -- on an
25 annual basis.

1 THE CHAIRMAN: Do you not agree it would
2 take one heck of a lot of resources to do such a
3 program?

4 MR. LINDGREN: Well, I haven't offered
5 any concrete ideas as to how this could be done, but it
6 is conceivable there are expensive options, there are
7 inexpensive options.

8 THE CHAIRMAN: Well, I would suggest that
9 you bring forward to the Board some concrete
10 suggestions in your side of the case as to how you
11 might better identify areas of concern.

12 MR. LINDGREN: I think that I can
13 indicate we are certainly prepared to do that, Mr.
14 Chairman.

15 THE CHAIRMAN: Okay.

16 MR. KENNEDY: Mr. Lindgren, perhaps there
17 would be some comfort in knowing that the planning
18 process is flexible enough to incorporate any new areas
19 of concern or values that are brought to the attention
20 during the interim period of the management plan and
21 those can be incorporated into the plan by the
22 amendment process and applying the area of concern
23 planning process to those new values.

24 So certainly it is flexible enough to
25 accommodate new information if it does arise at some

1 time during the term.

2 THE CHAIRMAN: Mr. Lindgren, one last
3 question - and this goes for any of the other parties -
4 if you are going to bring recommendations to the Board
5 for things such as the topic you have covered, is there
6 any consideration of what the cost implications of
7 those are?

8 Would it be the intention of, for
9 instance, your client to put forward a suggestion, for
10 instance, to better identify areas of concern with some
11 other method, would you be attempting to cost it at
12 all?

13 MR. LINDGREN: Well, Mr. Chairman, I
14 would say that it would be irresponsible not to attempt
15 to do that. I think that where options are brought
16 forward, I think that some degree of cost
17 quantification should be attempted and, where possible,
18 we will try to do that.

19 THE CHAIRMAN: Because certainly I think
20 it is reasonable to assume that in the overall
21 management of the forest there is a limited pot from
22 which to draw, and if you are taking resources from the
23 same source and applying it to a different activity,
24 some other activity may in fact suffer. The
25 alternative of course is the government allocates more

1 money for forest management or more money is raised
2 through increased levies or dues or industry kicks in
3 more, or whatever.

4 But I think it would be irresponsible for
5 this Board to come out with its recommendations on the
6 planning process without at least having the
7 opportunity to consider what some of the cost
8 implications might in fact be.

9 MR. LINDGREN: I agree with your
10 comments, Mr. Chairman.

11 Q. Mr. Bisschop, let me ask you about
12 the relationship between road planning and the
13 amendment process, and to do that I would like to give
14 you a hypothetical situation which is based on the
15 administrative amendment that is found at page 477 of
16 the witness statement.

17 I would just like to briefly indicate
18 that this was an administrative amendment relating to
19 the construction of a winter bypass road so that an
20 unsafe hill could be avoided. Is that correct, Mr.
21 Bisschop?

22 MR. BISSCHOP: A. Yes.

23 Q. Now, suppose we had a hypothetical
24 secondary or primary road that did not go through an
25 AOC and then for operational reasons an amendment is

1 required or requested, that reason might be that the
2 hillside is too slippery to negotiate in the
3 wintertime, the company makes the request -- or the
4 unit forester I guess makes the request to realign the
5 road for one kilometre around the hillside. And just
6 assume for the sake of argument that this proposed
7 realignment takes the road outside the approved
8 corridor.

9 Now, Let me ask you a couple of questions
10 about that situation, if you have it clearly in mind.

11 A. Yes. I think I understand the facts
12 that you have given me, yes.

13 Q. Now, in that situation, is the
14 company or the person who requested the amendment
15 required to identify alternative realignments and are
16 they further required to conduct an environmental
17 analysis of those alternatives?

18 A. First of all, the request would have
19 to be -- first of all, the amendment would have to be
20 requested.

21 Q. Mm-hmm.

22 A. The request would have to be
23 accompanied by an explanation of what is the nature of
24 the change that is requested, and an indication of
25 whether or not there are features or values potentially

1 affected. There would have to be some information
2 available with the request.

3 The district manager would assess that
4 request in accordance with the procedures we have
5 outlined in the Class EA. If through the information
6 provided and the district manager's analysis of the
7 request he concludes that there are no features
8 affected, he could conclude that the amendment can be a
9 process administratively, the accompanying
10 documentation that came with the request that in itself
11 would have said that there are no features encountered
12 would have been satisfactory and there wouldn't have to
13 be the requirement to look at alternatives, if I
14 understand the nature of the situation you have put to
15 me.

16 Q. Well, my question was: In the
17 documentation that must accompany the request, is there
18 a requirement that alternatives be identified and
19 analysed by the person making the request?

20 A. Not in the documentation that
21 accompanies the request.

22 Q. And when did you indicate that this
23 analysis of alternatives would be done?

24 A. The request would be made with
25 accompanying explanation of the reasons for the

1 request, the district manager would make his decision
2 as to whether or not the request would be granted and
3 the category that would apply.

4 I am saying in the case of a decision to
5 go administratively on that request, there would not be
6 a requirement to -- not necessarily be a requirement
7 there to look at the question of alternatives. If the
8 direction was to go minor or major amendment, the
9 planning procedure follows that the subject of
10 alternatives would be a requirement.

11 Q. Is the person who requests the
12 amendment required to identify any AOCs that might be
13 affected or traversed by the proposed realignment?

14 A. In the request there should be some
15 indication from the knowledge base that is present at
16 the time for the requester as to whether or not there
17 are AOCs' values affected.

18 More commonly I would suggest that that
19 subject is addressed by the district staff who review
20 the request on behalf of the district manager in
21 accordance with the questions that are outlined on
22 pages 171 and 172 of the Class EA, and district staff
23 more commonly would provide the information as to
24 whether or not there are values potentially affected.

25 Q. Now, presumably if this amendment

1 were treated as a major or a minor amendment, there
2 would be a public notice that would be issued and the
3 public would also have an opportunity to identify any
4 values or AOCs that might be affected?

5 A. That's correct.

6 Q. But if it is proceeding as an
7 administrative amendment there is no public notice.
8 And in my hypothetical situation, if no public notice
9 was issued, it would be extremely difficult for the
10 public to identify any values that might be affected by
11 the proposed realignment?

12 THE CHAIRMAN: But if somebody was going
13 to be impacted by the realignment, they would certainly
14 be squawking; wouldn't they? I mean, if you are coming
15 close to a tourist lodge or you are coming close to an
16 identified area, even it were going to be treated as an
17 administrative amendment --

18 MR. BISSCHOP: Mr. Chairman, the district
19 would obviously be aware of that situation and would
20 take that into account in terms of the decision that is
21 made on the appropriate category and, in that instance,
22 I would suggest that it is highly unlikely that we
23 would make a decision to go administrative.

24 MR. MARTEL: But it could occur and no
25 one would even know that you had an amendment, no one

1 in the public would know? You could have an
2 administrative amendment without the public even being
3 aware of it?

4 MR. BISSCHOP: Hypothetically, yes. We
5 have indicated that we -- that all copies of all
6 amendments would be attached to the plan that is
7 available at any time for public inspection in the
8 district office. So, yes, after the fact, if you will,
9 someone could become aware of it through reviewing the
10 plan that is available for inspection, yes.

11 I think a point to make is that the -- I
12 think through the procedure that we have outlined,
13 particularly on pages 171 and 172 of the Class EA, we
14 provide the opportunity for district manager discretion
15 on this matter but we provide, I believe, a fairly
16 comprehensive indication of the kind of questions he
17 should ask himself in terms of coming to that very
18 important decision as to, firstly, whether the
19 amendment request should even be granted, but more
20 particularly on the subject of which category he ought
21 to apply.

22 And I think I indicated in our direct
23 evidence that in large part he's very much going to be
24 asking himself the question: Should I consult publicly
25 on this proposal, and if he makes that decision, it

1 would go either the minor or major amendment route.

2 MR. LINDGREN: Q. Mr. Bisschop, I have
3 given you a hypothetical situation, I would like to
4 deal now with an actual amendment from the Timmins
5 Crown Management Unit. It is slightly different in
6 that it was treated as a minor amendment rather than an
7 administrative amendment.

8 MR. LINDGREN: But I would like to file
9 as the next exhibit the public notice that is dated
10 March 20th, 1989 issued by the Timmins district
11 manager.

12 THE CHAIRMAN: Exhibit 888.

13 MR. LINDGREN: (handed)

14 ---EXHIBIT NO. 888: Public notice dated March 20th,
15 1989 issued by the Timmins
district manager.

16 MR. LINDGREN: Q. Mr. Bisschop, I
17 understand that you've had an opportunity to review
18 this document?

19 MR. BISSCHOP: A. Yes, I have.

20 Q. Can you confirm for me that this
21 amendment permits the gravelling of a winter road and
22 the commencement of road maintenance on this road; is
23 that correct?

24 A. That's the subject of the amendment,
25 yes.

1 Q. This amendment also allows the
2 harvest of four previously unallocated stands; is that
3 the case?

4 A. Yes. That's my understanding, yes.

5 Q. Mr. Bisschop, does the gravelling and
6 road maintenance essentially turn this winter road into
7 an all-weather road?

8 A. As I understand it, yes.

9 MR. FLEET: A. I may be able to help you
10 with the answer to that question.

11 Q. Please do.

12 A. With respect to all-weather, it would
13 become all-weather for logging vehicles and the load
14 which is associated with a loaded truck.

15 I personally have driven that road in a
16 passenger vehicle in most seasons and, in that sense,
17 for passenger vehicles, it is already all-weather. It
18 is with respect to the load-bearing capacity of the
19 road that it is only a winter road.

20 Q. This winter road, is it a primary
21 road, a secondary road, tertiary road?

22 A. In that the road has been in
23 existence in excess of 10 years, it has to be primary.

24 Q. If it's a primary road why would it
25 be described as a winter road?

1 A. The road is a winter road in terms of
2 this notice with respect to our ability to haul timber
3 across it. It is an all-weather road with respect to
4 the ability of that road to provide vehicular access
5 for passenger capacity vehicles, if you would. It has
6 been in existence for numerous years in the Timmins
7 District.

8 THE CHAIRMAN: Excuse me a second. We
9 can take it then, Mr. Fleet, that when you are
10 categorizing roads for the purposes of the timber
11 management planning process into primary, secondary and
12 tertiary, you are using those descriptive terms with
13 respect to the ability of the road to be appropriate
14 for hauling wood?

15 MR. FLEET: I would suggest that that is
16 the case in this case. I don't think that is the
17 general case, sir.

18 THE CHAIRMAN: So in the general case, if
19 it is all-weather being there for more than 10 years
20 and the ability to allow cars to at least travel, then
21 it would be considered a primary road; is that correct?

22 MR. FLEET: I guess so, yes.

23 THE CHAIRMAN: So you don't have a
24 different descriptive term depending on the type of
25 vehicle that uses that road?

1 MR. FLEET: No, and I guess I wasn't
2 trying to point out that this was a primary road for
3 autos, but a secondary road for logging trucks.

4 THE CHAIRMAN: Right.

5 MR. FLEET: I was pointing out that with
6 respect to this particular road, it could not carry
7 logging trucks all season, simply in the winter.

8 And I guess, in that sense, prior to the
9 gravelling of this particular road it might not have
10 been considered a primary road because, as I recall
11 now, the description in the Class EA Document primary
12 does also include the descriptor all-season.

13 MR. LINDGREN: Q. Prior to this
14 amendment, was this road used only during the winter?
15 Is that why it was designated -- or referred to as a
16 winter road?

17 MR. FREIDIN: By logging trucks, are you
18 asking him?

19 MR. FLEET: Prior to this amendment this
20 particular road could only be used in the winter by
21 logging vehicles. As I have also said, I personally
22 have driven this road in the spring and in the summer
23 in a passenger vehicle, in a half-ton truck.

24 MR. LINDGREN: Q. Was it passable and/or
25 used by logging trucks in the summer prior to this

1 amendment?

2 MR. FLEET: A. With respect to this
3 request for the amendment and with respect to the
4 recent history of the road with which I am familiar
5 with, no, it could not be used by logging trucks in the
6 summer.

7 MR. FREIDIN: Just one matter of
8 clarification, if I might. When he says he drove this
9 road in the summer, is that before it was gravelled or
10 after it was gravelled?

11 MR. FLEET: I drove that road this summer
12 prior to the road being gravelled.

13 MR. LINDGREN: Q. Are you familiar with
14 this notice, Mr. Fleet?

15 MR. FLEET: A. Yes, I am.

16 Q. I will just read into the record the
17 second paragraph, last line. The second paragraph
18 outlines the reason for the proposed minor amendment
19 and in the last line it is indicated:

20 "It will also make possible year-round
21 hauling and, hence, benefit Ontario's
22 timber management program for that area
23 by making available previously
24 unavailable timber due to access and
25 subsequent economical considerations."

1 Given that prior to this amendment this
2 road was only used during the winter by logging trucks,
3 would you describe this as a substantial change in the
4 nature and use of the road?

5 A. No, I have to clear something up. I
6 said the road could only be used in the winter by
7 logging trucks. I think to clear the issue up I have
8 to provide the background with respect to the reason
9 for the amendment request which isn't fully explained
10 in the letter.

11 Q. This is the public notice that went
12 out?

13 A. That is correct.

14 Q. And the reasons aren't fully
15 explained?

16 A. The background with respect to the
17 explanation is understood by the parties that are
18 involved or directly impacted, and if I could take a
19 minute to explain that, I think it would be helpful to
20 the Board.

21 Q. Okay.

22 THE CHAIRMAN: Okay. Go ahead, please.

23 MR. FLEET: First of all, if you have
24 been given a copy of the exhibit, this is a very poor
25 quality, and the map that was sent out with the notice

1 was in fact hand coloured, 125 of them, to each of the
2 members on the mailing list. And it's difficult to
3 explain, but there is a junction of the particular road
4 in question and a road which runs due south. That
5 particular road is called the Ice Chest Lake Road and
6 the Ice Chest Lake is a cottaging lake.

7 MR. FREIDIN: I am having trouble. Could
8 you perhaps begin again?

9 MR. FLEET: Yeah. Like I said, because
10 this particular map isn't a good portrayal, we hand
11 coloured exactly what the Ice Chest Lake Road. It
12 would go from a point on the map where the word Evelyn,
13 which refers to Evelyn Township, the Evelyn on the
14 left -- there's two Evelyns because it's -- I don't
15 know why. Okay.

16 And the little numbers, 10 above the E, 9
17 above the L, 8 and then 7, there is a junction at that
18 point, if you would, and following down between lot -
19 those are lot numbers - following down between lot 7
20 and then what would be lot 6, but the number 6 doesn't
21 appear, to the bottom of the map there is a very faint
22 impression that there is a road there. That is the Ice
23 Chest Lake Road.

24 MR. FREIDIN: Is the road you are
25 referring to the dark --

1 MR. FLEET: It's a perfectly straight
2 line going due south between lot 7 and lot 6 all the
3 way through Evelyn Township.

4 MR. KENNEDY: Is that south of Dipper
5 Lake, Mr. Fleet?

6 MR. FLEET: Yes, south of Dipper Lake.
7 You can see the junction of another road coming up from
8 the southeast immediately at -- and it meets at the
9 point just above the 7 and just south of Dipper Lake.

10 Could I verify that you have the right
11 road?

12 MS. SWENARCHUK: Could I have another 125
13 copies?

14 THE CHAIRMAN: Why don't you colour one
15 copy, put it up on the overhead. Can you do that?

16 MR. FLEET: I don't have the plastic.

17 MRS. KOVEN: It won't show up.

18 THE CHAIRMAN: It won't show, okay. Do
19 you want to go on tour and show everyone else?

20 MR. CHURCHER: Bob and the Banshees, the
21 world tour.

22 MR. CASSIDY: This is a real road show.

23 MR. FLEET: Anybody else?

24 MR. CASSIDY: No, I know where it is.

25 Thanks.

1 THE CHAIRMAN: Thank you.

2 MR. FLEET: Okay, if I could continue.

3 The yellow line, going due north and south is referred
4 to as the Ice Chest Lake Road. It is a road to a
5 cottaging lake, the Ice Chest Lake, and it is
6 maintained by the City of Timmins which has some rather
7 large city limits.

8 The green line represents the road which
9 is the subject of the gravelling. Historically on the
10 Timmins Crown Management Unit, logging -- in the recent
11 history, logging trucks have traversed on an
12 all-weather basis the Ice Chest Lake Road which is
13 maintained by the city.

14 The cottagers on the Ice Chest Lake
15 approximately a year and a half ago approached the
16 Ministry of Natural Resources and the city and had some
17 complaints regarding the frequency of logging trucks on
18 "their cottaging road" and the damage that was being
19 caused by those logging trucks.

20 We attempted to come to a resolution of
21 the issue and that resolution was that the Ice Chest
22 Lake Road would be no longer available as an
23 all-weather hauling road for logging trucks in
24 consideration of the cottagers' concerns on the Ice
25 Chest Lake.

1 We were still able to use that road, if
2 you would, as a winter road for logging, but we were
3 now unable to transport wood from that area during the
4 summer months out to the wood processing facilities.
5 That particular area is an upland area and is fairly
6 important with respect to the ability of that
7 management unit to provide summer wood. We have an
8 abundance of lowland in the Timmins District and that
9 is one area where we are -- where we do have a summer
10 wood supply but there is a conflict with the cottagers.

11 The request for the amendment, if you
12 would, came from an individual who is the logging
13 operator who was most affected by the new logging road
14 restriction imposed by the City of Timmins. He
15 suggested that it would be -- that he would undertake
16 to gravel that second road, which I outlined in green,
17 which I guess is nameless, which was an old logging
18 road which is used now for some recreational purposes,
19 but because of the sandy nature of that particular part
20 of the unit, in fact what happened with respect to
21 gravelling and maintaining the road, there were perhaps
22 ten spots along the road that are very sandy and a
23 truck would just -- a loaded truck would just disappear
24 into the sand.

25 So in terms of the amendment and the

1 actions which resulted by that amendment, there were
2 several loads of gravel applied to the sandy sections
3 of the road at various points along the way to enable
4 us to move timber across that road in the summer as
5 well as in the winter.

6 In the winter we don't use that road, in
7 the winter we are allowed to use the Ice Chest Lake
8 Road. It is a more direct route to town where the wood
9 processing facilities exist.

10 So the essence of the amendment request
11 is that initially in response to the cottagers'
12 concerns we restricted the historical use of the Ice
13 Chest Lake Road maintained by the city and we provided
14 a summer road, if you would, for the operator and for
15 access to that wood so that we could move the wood in
16 the summer.

17 THE CHAIRMAN: Cottagers in favour of it
18 as well?

19 MR. FLEET: Absolutely.

20 MR. LINDGREN: Q. Mr. Fleet, you have
21 indicated that 125 coloured maps went out presumably to
22 the public?

23 MR. FLEET: A. That's correct.

24 Q. Can you identify in a general sense
25 who got the notice?

1 A. That would be the mailing list for
2 the Timmins Crown Management Unit.

3 Q. That would include the cottagers
4 presumably?

5 A. Yes, all the cottagers were notified.

6 Q. What about the inhabitants of the
7 Town of Connaught?

8 A. They too were notified.

9 Q. And did you provide a coloured copy
10 of this map and a copy of this amendment request to the
11 Environmental Assessment Branch of the Ministry of the
12 Environment?

13 A. Yes, we did.

14 Q. Do you recall if that particular map
15 was coloured?

16 A. My best information tells me that the
17 map indeed was coloured.

18 Q. Now, if I understand the essence of
19 this amendment, it would be permitting logging trucks
20 to travel on a road that previously they could not
21 travel on?

22 A. It would be permitting logging trucks
23 to travel on a road which in the recent past they did
24 not.

25 Q. Does that not amount to a change in

1 the use of the road?

2 A. Yes, it would.

3 Q. Is that a substantial change in the
4 use of the road?

5 A. Well, maybe in the sense of a change
6 in the use of the road, it is a logging road. I mean,
7 the road was put in place as a logging road, it wasn't
8 put in place for the cottagers. The Ice Chest Lake
9 Road was developed for the cottagers.

10 In terms of a change in the use of the
11 road, it is a reactivation of use of a road which
12 recently hadn't been because the city had developed a
13 shorter route.

14 Q. Well, the road will now permit
15 year-round hauling as opposed to seasonal hauling in
16 the past?

17 A. No.

18 THE CHAIRMAN: Wasn't the evidence, it
19 will just permit hauling in the summertime because of
20 the gravelling and, in the wintertime, they would use
21 the Ice Chest Road again; would they not? Is that
22 your --

23 MR. FLEET: That's correct, Mr. Chairman,
24 yes.

25 THE CHAIRMAN: The year-round hauling in

1 the letter may refer to the use of both roads in
2 conjunction --

3 MR. LINDGREN: That's correct.

4 Q. These two requests, or the request to
5 gravel and maintain the road and the request to access
6 previously unallocated stands, those two requests
7 proceeded concurrently, they are both referred to in
8 this same notice?

9 MR. FLEET: A. Yes, they did proceed
10 concurrently, yes.

11 Q. So they were processed all at the
12 same time?

13 A. They were all part of the same
14 amendment request, if you would, yes.

15 Q. Can you briefly identify the specific
16 reasons why this amendment request was characterized as
17 minor as opposed to major?

18 A. I think it was proposed as minor as
19 opposed to major for a number of reasons, but the two
20 that come readily to mind are the circumstances of the
21 particular activity, the fact that it was something
22 which we felt to be generally supported by the planning
23 groups that we knew would be affected, but we were not
24 a hundred per cent certain on that fact so we felt that
25 we did need some public dialogue.

1 We went minor to, if you would, test the
2 response of the citizens of Connaught, and if there had
3 been some significant concerns raised during our
4 processing of this amendment request as a minor we may
5 have -- we would have been prepared to elevate it to a
6 major amendment and process it as such.

7 As it turned out there were no
8 significant concerns raised by the citizens of
9 Connaught and we were able to proceed with this
10 amendment in a minor amendment category fashion.

11 Q. Were any concerns raised?

12 A. Yes, there were.

13 Q. By whom?

14 A. There were five responses to the 125
15 letters that were sent out. Three from the cottagers,
16 and a loose-knit cottagers' association, if you would,
17 in support. One from Mr. Sid Sampson, the NDP member
18 of parliament for the Timmins riding, and his concern
19 was with respect to the use of the highway at the end
20 of this particular road and that concern was addressed.

21 And one concern was raised by the company
22 forester from the Quebec and Ontario Paper Company, and
23 he was simply seeking clarification with respect to
24 what we meant by maintenance.

25 Q. Can you identify what the concern was

1 of the NDP representative?

2 A. Yes, if I could, if you look in the
3 lower right-hand corner of the map and if you can see
4 in the dark area -- the two colours, by the way, for
5 the lots and concessions on the Timmins Crown in this
6 photocopy, the dark is what would be described as
7 patent land and the white is Crown land and there is
8 quite a preponderance of patent land in this particular
9 management unit.

10 But if you look and you see the number
11 610 in the bottom corner of the map, just west of the
12 river and just north of the word city, and if you can
13 follow that on this poor copy, there is a municipal
14 road with three 90-degree corners, and Mr. Sampson was
15 concerned that if we were to now be using that
16 particular segment of that road to haul timber, that it
17 may pose some safety hazard to the public.

18 And also that by having logging trucks
19 turn those 90-degree corners, which they might not all
20 been designed for, that could result in the
21 deterioration of that municipal road.

22 We were able to alleviate Mr. Sampson's
23 concerns through direct consultation with Ministry of
24 Transportation. They agreed to sign the road and,
25 additionally, they agreed to enhance the corners if

1 that was deemed to be required over time.

2 Q. And who was going to pay for these
3 alterations if required?

4 A. That would be the Ministry of
5 Transportation.

6 Q. Has the Ministry received any
7 concerns from the Ministry of Transportation or from
8 municipalities about just this kind of affair, about
9 the linkage of forest access roads to existing
10 provincial or municipal roads?

11 A. Well, in fact, the entire reason of
12 this particular amendment was because of a concern
13 raised through the municipality with respect to our use
14 of the city road, of the Ice Chest Lake Road with
15 respect to our use of the municipal road 610.

16 We discussed that with Ministry of
17 Transportation and they readily agreed to provide the
18 additional signage and required maintenance. There was
19 no concern distress or concern expressed on their part.

20 Q. Mr. Bisschop, perhaps I could ask you
21 the same question. Has the Ministry received
22 expressions of concern from the Ministry of
23 Transportation or municipalities about the linkage of
24 access roads to provincial or municipal roads?

25 MR. BISSCHOP: A. The only expression,

1 if you will, of concern that I can recall was a letter
2 or the comments of the Ministry of Transportation and
3 Communications at the time on the Class EA in the
4 government review, and I can't recall now whether that
5 was a comment made on the December, '85 version of the
6 Class EA or the June, '87 version and I can't recall
7 the exact specifics of the comment either, but it's
8 included I believe in the government review document.

9 It concerns I think some -- the concern
10 expressed related to local roads boards and the subject
11 of the use and maintenance of roads. I would have to
12 look into that further to get the exact details.

13 THE CHAIRMAN: It would be related, in
14 any event, to cost and maintenance and those kinds of
15 concerns because it would have to be a given; would it
16 not, that forest access roads have to join up
17 somewhere, they don't exist in isolation and they have
18 take the wood to a mill at some point, so they are
19 either going to hit a highway or a municipal road; is
20 that not correct?

21 MR. BISSCHOP: That's correct. And
22 again, I think, Mr. Chairman, if my recollection is
23 correct it was a concern related to use and
24 maintenance.

25 MR. LINDGREN: Q. Just so -- I have one

1 final question of this matter, I would like to direct
2 it to Mr. Kennedy and I would ask him if he has
3 received any expression of concerns from municipalities
4 or the Ministry of Transportation other than the one
5 referred to by Mr. Bisschop?

6 MR. KENNEDY: A. You are referring now
7 to my experience in the district?

8 Q. Well, your experience in the district
9 and your current experience, your experience in your
10 current position?

11 A. Certainly during my experience in the
12 district I did receive expression of interest/concern.
13 In my present capacity I don't believe I have at all,
14 no.

15 THE CHAIRMAN: Mr. Lindgren, I don't know
16 where you are going with this line of questioning, but
17 are you in your case going to bring evidence to deal
18 with what these presumed concerns are?

19 MR. LINDGREN: We may see some evidence
20 of this next week on Tuesday.

21 That concludes my portion of the
22 cross-examination. Perhaps Ms. Swenarchuk might be
23 prepared to proceed at this time.

24 THE CHAIRMAN: Are you ready?

25 MS. SWENARCHUK: Say for half an hour.

1 THE CHAIRMAN: Yes, I think we might as
2 well go on for the half hour actually.

3 MR. LINDGREN: I should clarify, I am not
4 concluding my cross-examination in its entirety, I am
5 just concluding this portion and I am deferring my
6 questions that have been reserved for Mr. Bisschop on
7 the FEPP.

8 MS. SWENARCHUK: Mr. Chairman, let me
9 start by saying that I am going to be dealing with the
10 area of concern package of the Red Lake Plan starting
11 this afternoon and presumably going into Tuesday.

12 Now, I discussed with Mr. Freidin last
13 week the question of documentation here and he very
14 kindly assisted me in copying a number of complete
15 copies of Book 6 which is the total package of area of
16 concern materials.

17 What is in Reference 3A is a number of
18 excerpts from Book 6, fairly substantial, but I thought
19 it would be particularly useful for the Board to have
20 the complete package on area of concern planning in
21 this plan.

22 Now, since it's rather large we only
23 copied -- we only made three copies. I know Mr.
24 Multamaki has one, Mr. Freidin has one.

25 MR. KENNEDY: And, Ms. Swenarchuk, I

1 provided copies to those counsel that were here at the
2 time when I handed them out and I think I have one copy
3 left.

4 MS. SWENARCHUK: Thank you.

5 MR. KENNEDY: Mr. Edwards?

6 MS. SWENARCHUK: So this isn't your usual
7 four copies, but it's three. (handed)

8 THE CHAIRMAN: Thank you. Okay, we will
9 give this Exhibit No. 889.

10 MS. SWENARCHUK: It has an exhibit
11 number, Mr. Chairman. It is Part 1 of the books of the
12 original nine-volume set.

13 MR. FREIDIN: It is 818, Book 6.

14 THE CHAIRMAN: But should we not give it
15 a separate number so that we can tie it into this
16 evidence?

17 MS. SWENARCHUK: As you wish.

18 MR. FREIDIN: I would think not, it is
19 already an exhibit. 818, Book 6, is identical to what
20 you have just been given.

21 THE CHAIRMAN: Yes, but I think we have
22 numbered our things A, B, C and D; have we not, for
23 818?

24 MR. FREIDIN: No, we didn't. Book 1, 2,
25 3, 4, 5, 6 7, 8, 9.

1 MS. SWENARCHUK: Yes, I have it as 818 1
2 to 9, so this would be Book 6 or No. 6 of that 1 to 9.

3 THE CHAIRMAN: Okay. So strike the
4 Exhibit 889. This will go back to Exhibit 8 -- sorry,
5 14?

6 MS. SWENARCHUK: 818.

7 THE CHAIRMAN: 818-6.

8 MS. SWENARCHUK: Now, we have discussed
9 at some length this week the relevance of examining in
10 detail a particular plan. I don't propose to restate
11 all of the reasons that we discussed at that time.

12 With respect to the Red Lake Plan though,
13 I think there is an additional reason why the area of
14 concern package becomes so important, and if you would
15 turn to page 44 of reference -- of the plan excerpts as
16 opposed to this new book, Reference 3A, Exhibit 814.
17 So we are looking at the --

18 MR. MARTEL: What page?

19 MS. SWENARCHUK: Exhibit 814, page 44
20 of -- oh sorry, of Book 1.

21 THE CHAIRMAN: Management Guidelines for
22 Land Use Areas?

23 MS. SWENARCHUK: Exactly. And before I
24 get to some questions of Mr. Multamaki on that, just to
25 save the Board some time and help focus why we are

1 choosing to examine this material, I would just like to
2 direct your attention to some of the statements on this
3 page.

4 We are dealing with a particular
5 situation in the Red Lake Crown Management Unit in
6 that, as the first sentence indicates on the page:

7 "The Red Lake District does not have a
8 set of approved District Land Use
9 Guidelines."

10 And then in the next paragraph, the
11 second sentence:

12 "The implications of not having a set of
13 approved guidelines is that each resource
14 value has to be addressed on an
15 individual basis."

16 Then the third paragraph:

17 "The only areas on the Red Lake Crown
18 Management Unit where there are
19 management guidelines and strategies are
20 in provincial parks areas and these do
21 not recognize timber management
22 activities as an acceptable use."

23 Then we see in the next paragraph:

24 "The use of the area of concern process
25 is the best available method for

1 addressing other use concerns. This
2 agrees with the integrated resource
3 management strategy and the environmental
4 protection strategy given in Sections
5 4.9.3 and 4.9.4."

6 And then the last line of that page:

7 "The area of concern package
8 supplementary documentation gives a
9 complete description of the resource
10 values on the RLCMU that may be impacted
11 by timber management activities."

12 CONTINUED CROSS-EXAMINATION BY MS. SWENARCHUK:

13 Q. Now, I just want to be sure that I am
14 clear on this, Mr. Multamaki. When I take Book 6 and
15 look at it, I assume from that statement that I am
16 getting the complete description within this plan of
17 all the other resource values; is that right?

18 MR. MULTAMAKI: A. In Book 6, of all the
19 other resource values on the unit? No.

20 Q. That may be impacted by timber
21 management activities?

22 A. During this five-year period of the
23 plan, yes.

24 MS. SWENARCHUK: Okay. Now, if you would
25 look at Exhibit 882, please, Members of the Board, this

1 was filed by Mr. Lindgren and are the excerpts from
2 Book 5 of the plan. And if we can look at the second
3 last page which is numbered page 141.

4 Q. And if you could do that as well, Mr.
5 Multamaki.

6 MR. KENNEDY: A. I don't believe Mr.
7 Multamaki was given one. Could you give us a moment to
8 locate it. Could you advise the title of 882, please?

9 Q. Pardon me?

10 A. Could you advise us of the title of
11 882?

12 Q. It was excerpts from Book 5.

13 MR. FREIDIN: Page 62 in the top
14 right-hand corner. (indicating)

15 MR. MULTAMAKI: Okay.

16 MS. SWENARCHUK: I am not sure what's
17 happened to -- we have some machine in the back that's
18 eating exhibits. We used to produce 12 copies and that
19 was enough and now we are producing 14 and somehow it
20 is not enough.

21 MR. FREIDIN: I think we are producing 20
22 some and it is not enough.

23 MR. KENNEDY: We have located that, thank
24 you.

25 MS. SWENARCHUK: Q. Okay.

1 MR. MULTAMAKI: A. It is titled:
2 Planning Team Areas of Responsibility?

3 Q. That's right.

4 A. Okay.

5 Q. And I have asked you to turn to the
6 second last page of it which is numbered in the corner
7 from -- and these are the Book 5 numbers, 141.

8 Now, the previous page indicates that we
9 have here two pages which represent minutes from the
10 Red Lake Crown Management Unit planning team meeting of
11 January 30th, 1987. And I would like you to look now
12 at page 141, paragraph 5, the Land Use Guidelines
13 paragraph.

14 Now, I would like to ask you to clarify
15 these minutes for us, Mr. Multamaki. The first
16 paragraph:

17 "Ian Mettam suggested that since the
18 DLUG status is not official, this part
19 should not be addressed in the TMP; that
20 is, we should only reference DLUG, not to
21 be specific in showing forest management
22 practices when land use guidelines not
23 approved."

24 I don't understand the meaning of that
25 paragraph. Could you help us with it?

1 MR. MULTAMAKI: A. Yes. What Mr. Mettam
2 is saying is that the District Land Use Guidelines
3 should be referenced and, in fact, we have done that.
4 If you turn to Table 4.10, which is found on page 45 of
5 document -- or Exhibit 814, Book 1, you will see that,
6 in fact, we have referenced it.

7 Q. Right.

8 A. And the rationale behind that was
9 that because there were no approved District Land Use
10 Guidelines we would reference it in Table 4.10.

11 Q. Okay. Can you indicate the meaning
12 of the last part of that sentence?

13 A. The sentence that's on page 45?

14 Q. No, 141:

15 "...not to be specific in showing forest
16 management practices when land use
17 guidelines not approved."

18 I don't understand what he was getting at
19 there.

20 A. I expect -- or to the best of my
21 recollection, what I think he meant there was that we
22 couldn't be specific on forest management practices
23 when there weren't approved District Land Use
24 Guidelines and, in fact, the decision was that not only
25 were we not specific we were unable to provide them in

1 Table 4.10.

2 Q. So the sentence refers to Table 4.10?

3 A. Yes.

4 Q. All right. Then the next paragraph:

5 "Reference and strategy session,

6 unapproved DLUG, however certain

7 commitments were made during the DLUG

8 process. Identify Little Vermilion

9 two-kilometre zone."

10 Am I correct in understanding from that
11 that some commitment was made in that DLUG process with
12 regard to a two-kilometre zone around Lake Vermilion?

13 A. Certain of the background information
14 for the DLUG process had been done, in fact, data had
15 been collected, analysed and so on, and it is my
16 understanding that there was a two-kilometre zone or
17 area of concern -- preliminary area of concern
18 identified around Little Vermilion Lake.

19 I think we have discussed that on a
20 number of occasions and, in fact, we identified that on
21 the preliminary area of concern map, at a scale of
22 1:250,000 that you saw previously in this evidence, and
23 it was shown as a brown line and that's, in fact, how
24 we addressed that preliminary area of concern around
25 Little Vermilion Lake.

1 Q. Okay. Just so we don't confuse
2 anything here, you agree with me that at the time the
3 DLUG process was proceeding, I think the term area of
4 concern was not then used; is that not right? That
5 emerged later with the writing of the timber management
6 Class EA?

7 A. I would have to look to either side
8 of me for the timing on those two documents.

9 Q. Okay. It's not a major point, I just
10 don't want any confusion about this.

11 MR. KENNEDY: A. Yes, you are correct.
12 At the time the District Land Use Guidelines were being
13 prepared the term area of concern was not in use.

14 Q. Okay. So there was a zone identified
15 in that process around Lake Vermilion?

16 MR. MULTAMAKI: A. That's correct.

17 Q. Can you tell us exactly what
18 commitments were made with regard to that zone, the
19 commitments that are referred to in this sentence?

20 A. As I remember it, it was recognized
21 as having high value for tourism as we have previously
22 discussed, the fly-in tourism industry on Little
23 Vermilion Lake, and that zone within two kilometres of
24 Little Vermilion Lake, I think the intent there, as I
25 remember it, was that we would treat it as a high value

1 tourism area and, in fact, through the area of concern
2 or subsequently through the area of concern planning
3 process and the negotiations that took place with those
4 tourist operators on that lake we, in fact, came to a
5 reasonable prescription.

6 Q. Would there be any documentation that
7 would indicate exactly what the commitment was in the
8 DLUG process?

9 MS. SWENARCHUK: Could I ask you to
10 produce any that is available, Mr. Freidin?

11 MR. KENNEDY: Could we have a moment just
12 for a moment, please.

13 ---Discussion off the record

14 MS. SWENARCHUK: In case the Board is
15 about to ask the relevance of the commitment from
16 1979 --

17 THE CHAIRMAN: (nodding negatively)

18 MS. SWENARCHUK: Thank you.

19 THE CHAIRMAN: We tricked you, that
20 wasn't what we were talking about.

21 MS. SWENARCHUK: I am pleased to know
22 that, sir.

23 MR. KENNEDY: Ms. Swenarchuk, although I
24 am not familiar with the details of the Red Lake
25 situation, there is a possibility of one document that

1 may exist that would contain such information. We will
2 endeavor to find that document and search it to look
3 for that particular information and report back.

4 MS. SWENARCHUK: Q. Is this a document
5 within the Red Lake District office?

6 MR. KENNEDY: A. Yes, it would be.

7 Q. Thank you. Now, as a point of
8 departure from the fact that we don't have an approved
9 DLUG for this unit, you indicated in response to our
10 Interrogatory No. 8, Mr. Multamaki, that quantitative
11 objectives for non-timber resources are not determined
12 during timber management planning.

13 I simply wanted to ask you or ask you to
14 confirm that that was an interrogatory specifically
15 directed towards quantitative objectives, and will you
16 not agree that there are no objectives, quantitative or
17 qualitative, with regard to non-timber values reflected
18 in this plan?

19 MR. MULTAMAKI: A. No, I think I would
20 disagree with you and, in fact, I'd draw your attention
21 to the objectives and strategies section on page --

22 Q. I meant non-timber values.

23 A. You are looking for non --
24 objectives -- could you repeat the question?

25 Q. Yes. My question is: Will you

1 agree with me that there are no objectives,
2 quantitative or qualitative, regarding non-timber
3 values reflected in this plan?

4 A. No, I think that if you look on
5 page -- Document 814, Book 1, page 32, you will notice
6 at the top --

7 Q. You are referring to the IRM
8 objective?

9 A. The integrated resource management
10 objective, yes, that's a non-timber objective.

11 Q. Okay.

12 A. Underneath that, 4.8.4, the
13 environmental objective. That's not strictly a timber
14 related objective, in fact, both of those are
15 qualitative in nature.

16 If you go to the bottom of the page under
17 4.8.6, the employment objective, that's not completely
18 quantitative. There is I guess not really a target
19 associated with it, but an estimate of the dimensions
20 of employment on the unit.

21 Q. Excuse me. Could I just clarify.
22 Those employment objectives have to do with timber
23 extraction; do they not?

24 A. Associated with timber extraction.
25 Those are direct employment estimates given for --

1 within the timber industry or the timber harvesting and
2 processing industry in Red Lake.

3 Q. Right. And they don't include
4 objectives for employment related to industries other
5 than timber extraction industries; is that not correct?

6 A. Well --

7 Q. You don't have tourism employment
8 objectives in your timber management plan?

9 A. No. You have to remember that the
10 Ministry does not directly employ people in the
11 harvesting of timber, therefore, those are estimates.
12 And, in fact, it was for informative purposes and to
13 give focus to the resource management planners that, in
14 fact, that was the direction that we were headed in.
15 But you have to realize that we don't; i.e., run saw
16 mills, run pulp mills and so on. I would also in
17 keeping --

18 Q. I am not suggesting you should, Mr.
19 Multamaki. I just want to be clear that the employment
20 objective in the plan is related to timber
21 extraction-related employment?

22 A. I guess in the purest sense.

23 Q. Right.

24 A. Although if you assume the spin-off
25 benefits of employment in an area, the objective has a

1 wider range of social and economic benefits for the
2 area than just timber.

3 Q. Okay. Are you suggesting that within
4 the employment objective is a calculation of employment
5 opportunities on this unit for non-timber value related
6 industries?

7 A. No.

8 Q. Okay.

9 A. There is no calculation for that.

10 And I guess arguably on page 33, the fuel wood
11 objective under 4.8.7, because it deals with timber or
12 wood, it could be argued that it's a timber objective.
13 I would class it more as a social objective.

14 Q. That completes the list?

15 A. That's it.

16 Q. So just with respect to non-timber
17 values then, I think; won't you agree, that we are
18 basically dealing with -- I agree they are qualitative
19 statements of the IRM objective and the environmental
20 objective and, to some extent -- well, the fuel wood
21 objective?

22 A. Yes, I would agree that those
23 objectives are generally qualitative in nature.

24 MS. SWENARCHUK: Now, Mr. Chairman,
25 before I leap into a section that's going to take a

1 considerable length of time, if you were planning to
2 sit until five it is now ten to and I think this is...

3 THE CHAIRMAN: Okay. I think this will
4 be an appropriate time to break.

5 MS. SWENARCHUK: I would just like to
6 suggest, since most of the people in the room will be
7 working over the weekend or at least tomorrow, that it
8 might be helpful for you to have Book 6 now as opposed
9 to only on Tuesday, but that's merely an observation.

10 THE CHAIRMAN: Okay. Whereabouts do you
11 think you are in your examination? Do you figure you
12 will finish on Wednesday?

13 MS. SWENARCHUK: We think we will finish
14 Wednesday, yes.

15 THE CHAIRMAN: Okay. Counsel, before you
16 go, the Board has a present to bestow upon you.

17 What we have gathered together - which
18 all of you would have had copies of but we, for your
19 convenience, brought it together - is a copy of a
20 previous transcript or excerpts thereof - unfortunately
21 I don't know which volume it is because it is not on
22 here - but it is pages 10414 through 10476, as well as
23 a copy of the Board's previous procedural ruling date
24 November 25th, 1988.

25 The purpose in giving you this copy of

1 the excerpts from the transcript is to bring to your
2 attention elements of the Board's previous discussions
3 concerning measures that we might take to expedite this
4 hearing and, in particular, I would refer you to, for
5 instance, page 10421 wherein Mr. Campbell for the rest
6 of the parties was summing up the results of one of
7 your meetings amongst counsel and he just made the
8 statement -- I won't go through it all, but the gist of
9 it is:

10 "Now, I come back then, Mr. Chairman,
11 again, speaking for our position on this
12 matter, the desire to move this hearing
13 along, make it operate efficiently was
14 a desire that was, in large measure,
15 behind Mr. Castrilli's motion.

16 There are a number of new steps which
17 have been put in place. I think there is
18 general agreement that the kind of
19 identification of issues process that is
20 outlined here would assist in that
21 regard. It is certainly my
22 recommendation to you that supplemented
23 by that statement of issues list, that
24 there is very little to be lost and quite
25 a lot to be gained by letting the

1 measures which "we" have taken in "our"
2 various rulings proceed.
3 If six weeks after the beginning, again
4 in the new year, or whatever time you
5 feel is necessary to make a fair judgment
6 as to whether those steps are working
7 and counsel are living up to the kind of
8 obligations that I think we are all
9 prepared to undertake in this matter -
10 the Board reaches a different conclusion,
11 then the matter need not -- is not frozen
12 forever, but I think there have been a
13 number of things done. There has been an
14 increasing awareness of the Board's
15 concerns in this regard and an increasing
16 awareness that we have to be conscious of
17 that at all times in our appearances
18 before you."

19 The words of Mr. Campbell, on your behalf
20 I might add. And then there are other statements as
21 you go through here.

22 One by Mr. Hunter, for instance, at page
23 10446 where he says:

24 "I think you have a very difficult
25 task, now faced with having to control

1 the dogs of war and I don't envy you."
2 And he goes on into a little dissertation
3 about how it would be nice to--
4 MR. FREIDIN: Easy for him to say that
5 when he is not here.
6 THE CHAIRMAN: --deal with expediting the
7 hearing. Mr. Williams, on behalf of OFAH:
8 "Certainly it is in our self interest
9 that these hearings be expedited and
10 conducted fairly and fully in the
11 shortest period of time for the reasons
12 stated quite eloquently by Mr. Hunter..."
13 In which he reiterates ten-fold, et cetera.
14 The Board would like counsel to review
15 these comments over the weekend so that when you are
16 further deliberating on Tuesday as to how we might
17 speed things along you can have thrown up in your own
18 faces things that you yourselves have said, not just
19 what the Board has said in the past.
20 With that, we wish you a Happy
21 Thanksgiving and we will see you on Tuesday.
22 Thank you.
23 ---Whereupon the hearing adjourned at 5:00 p.m., to be
24 reconvened on Tuesday, October 10th, 1989,
commencing at 2:00 p.m.

